

INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE STATE OF ARIZONA
AND
COUNTY OF YUMA

1986
1-7-87
see Reverse side

INTERCHANGE PROJECT AGREEMENT

THIS AGREEMENT, entered into pursuant to A.R.S. §11-951 through §11-954, by and between the STATE OF ARIZONA, acting by and through the ARIZONA DEPARTMENT OF TRANSPORTATION, hereinafter called "STATE", and the COUNTY OF YUMA, hereinafter called "COUNTY".

WHEREAS, the Director, Arizona Department of Transportation is empowered by A.R.S. §28-108 to enter into this agreement, and has fully authorized the Assistant Director, Highways Division, to execute the same, said authorization being attached hereto and incorporated herein as Exhibit "A".

WHEREAS, the County, acting by and through its duly elected governing body, has, pursuant to A.R.S. §11-251, by that certain resolution attached hereto and incorporated herein as Exhibit "B", resolved to enter into this Agreement and has authorized the undersigned as its representative to execute the same on behalf of said County.

WHEREAS, it is to the mutual benefit of the State and the County to enter into an agreement for construction of an interchange on Interstate 8 at the location where the County's Avenue 13E intersects Interstate 8, a bridge across Fortuna Wash and extension of the North Frontage Road, the locations thereof being more particularly set forth and

delineated upon the map attached hereto and incorporated herein as Exhibit "C". Said construction shall hereinafter be referred to as "Project".

NOW, THEREFORE, the parties hereto mutually agree to the following:

The participation in the total actual costs of the Project shall be as follows:

A. The State of Arizona and the County of Yuma shall each bear fifty percent (50%) of the total actual cost upon completion of the Project. The total actual cost of the Project to be used in calculating cost sharing will be the sum of the actual costs for interchange construction and all civil and structural engineering plus the agreed-to appraised value of all rights of way obtained for the Project. The Fortuna Wash Bridge Construction and North Frontage Road Extension cost will be the actual cost incurred by Yuma County including all engineering and right of way acquisition.

B. The total actual cost of the Project will not be determined until final close-out of engineering and construction contracts.

C. The share of each party in the total actual costs of the Project shall be allocated as follows:

(1) The County shall provide certain rights of way for the Interchange, Fortuna Wash Bridge Construction and North Frontage Road Extension and the County shall receive credit

toward its share in the total actual costs of the Project in the amount of the appraised value of the rights of way if donated and in the amount of the actual cost of the rights of way if purchased by the County. The County's right of way acquisition activities shall conform to the Federal Uniform Regulations as directed in 49 CFR Part 25, a copy of said regulations being attached hereto and incorporated herein as Exhibit "F". All appraisals supporting the value of the right of way will be submitted for review and acceptance by the State.

(2) The County shall perform the engineering for the Project with the County to receive credit toward its share in the total actual cost of the Project in the amount of the actual costs of said engineering.

The County will perform the Project development work including preliminary studies, and environmental assessments. Final construction drawings and the costs of said development work shall be deemed included in the cost of engineering under this Paragraph C(2). In any case the cost of the engineering shall not exceed ten percent (10%) of construction cost of the project.

(3) The County shall construct the Fortuna Wash Bridge on the North side of the Interstate and shall re-locate and extend the North Frontage Road East across Fortuna Wash to a point to be agreed upon by the parties with the County to receive credit toward its share in the total actual costs of

the Project in the amount of the actual costs of constructing said bridge and relocating and extending said Frontage Road. The engineering costs of the Fortuna Wash Bridge shall be a part of the overall engineering costs and subject to the limitation set out in Paragraph C(2) above.

(4) The County shall accept into the County Road System the North and South Interstate 8 Frontage Roads from U.S. Highway 80 East across Fortuna Wash to the end of the existing frontage roads specifically defined as follows: North Frontage Road ends 70 feet left of Station 942 + 46-20 Westbound I-8 and South Frontage Road ends 230.19 feet right of Station 463 + 65.37 Eastbound I-8. At all points where the above Frontage Roads intercept I-8, the limits of State responsibility will be to a point agreed upon by the parties at the time of abandonment of the Frontage Roads and will be based on requirements for good interchange operations. For acceptance of said Frontage Roads the County shall receive 1.1 Million Dollars (\$1,100,000.00) credit toward its share in the total actual costs of the Project. Said acceptance into the County Road System shall take place upon completion of the Project and the County shall thereafter assume and maintain as part of the County Road System the aforesaid Frontage Roads. Prior to completion of the Project, the State shall be responsible for maintaining said Frontage Roads and shall bear all costs of maintenance and repair.

(5) The County shall have the option, upon ninety (90) days after completion of the Project, to accept into the County Road System the length of Business Route 8 from Avenue 3E to approximately 8E where Business Route 8 intersects with the South Frontage Road of I-8. If this option is exercised by the County, then the County shall receive 1.1 Million Dollars (\$1,100,000.00) additional credit toward its share of total actual costs of the Project.

(6) The County shall receive Three Hundred Fifty Thousand Dollars (\$350,000.00) credit toward its share in the total actual costs of the Project as settlement of any and all claims the County may have against the State in Maricopa County Case No. C-490871 and C-490853 (consolidated), also referred to as HURF No. 1, and shall provide all necessary releases and execute all necessary documents to that end.

(7) Upon completion of the Project, all credits due to the County as set forth above shall be deducted from the County's fifty percent (50%) share of the total actual cost of the Project.

If upon deducting said credits, the total actual costs expended by the County and credits received by the County exceed the amount of the County's fifty percent (50%) share of the total actual project cost, then the State shall make a cash payment of the difference to the County.

If, upon deducting said credits, the total actual costs expended by the County and credits received by the County are

less than the amount of the County's fifty percent (50%) share of the total actual Project cost, then the County shall make a cash payment of the difference to the State.

D. This Agreement is subject to the approval of the Arizona State Transportation Board and funding being appropriated initially for the budget year of 1987-1988.

E. The project is to be administered in accordance with state and federal requirements. ADOT will provide direction and approve all project requirements, process project documents through the Federal Highway Administration, conduct necessary public hearings, and advertise, award and administer the Foothills Interchange Construction Contract. The cost of providing the services set forth in this Paragraph E, except for administering the construction contract of the Foothills Interchange, shall not be deemed to be included in the total cost of the project for purposes of cost sharing with the County and shall be the sole responsibility of the State. The cost of administering the Foothills Interchange Construction Contract shall be included in the total actual cost of the project for purposes of cost sharing up to a maximum of ten percent (10%) of the total construction costs.

F. The parties hereto further agree that:

To the extent permitted by law, State and Yuma County agree to defend, indemnify, and hold harmless each other and their agents, officials, employees and subsidiaries, from and against any and all claims, actions, demands, liability,

damage, cost and expense of whatsoever character whether direct or indirect, or consequential, including loss or damage to property of either party heretofore or of their persons and for the injury or death to any or all persons caused by or attributable to the negligence or fault of the State or Yuma County, their employees or agents.

As to any liability claims where the parties hereto may be jointly at fault, whether or not a named defendant to an action, the parties agree that they will share in any settlement or judgment on the amount that is proportionate to the degree of negligence or fault of the respective parties as agreed to between them or adjudicated by the courts.

In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for Public Works contracts in Section 12-1518(B) and (C) of Arizona Revised Statutes as amended.

G. The County shall, by appropriate policies of insurance or through self-insurance programs, provide full liability and property damage coverage on all employees engaged in performing those duties herein agreed to be performed by the County. Any such coverage shall include negligent performance or nonperformance of the duties herein agreed to be performed by the County. The County will maintain the insurance for the period of this Agreement.

H. The State shall, by appropriate policies of in-

surance or through self-insurance programs, provide full liability and property damage coverage on all employees engaged in performing those duties herein agreed to be performed by the State. Any such coverage shall include negligent performance or nonperformance of the duties herein agreed to be performed by the State. The State will maintain the insurance for the period of this Agreement.

I. The County and the State shall set aside sufficient funds to cover cost of fulfilling each entity's responsibilities set forth in this agreement, subject to State budget laws.

J. This Agreement shall be filed with the Secretary of the State and shall become effective on the date of such filing.

K. Attached hereto are resolutions of the Department of Transportation (Exhibit "A") and the County of Yuma (Exhibit "B") authorizing both entities to enter into this Agreement; and a written determination by the County and the State (Exhibits "D" and "E") that this agreement is in proper form and within the powers and authority granted to the County of Yuma and the State of Arizona, respectively, under the laws of this State.

L. All parties are hereby put on notice that this contract (Agreement) is subject to cancellation by the Governor pursuant to Arizona Revised Statutes, Section 38-511.

M. This Agreement shall terminate upon completion of all of the following:

1. Completion of the Project.
2. Payment of all cash payments due under Paragraph 7 herein.
3. Acceptance into the County Road System of those roads agreed upon in Paragraph 4 herein.
4. Exercise or non-exercise of the option set forth in Paragraph 5 herein.

IN WITNESS WHEREOF, the parties have executed this Agreement this 1st day of December, 1986.

STATE OF ARIZONA
ARIZONA DEPARTMENT OF TRANSPORTATION

By 
Title: Chief Deputy State Engineer

COUNTY OF YUMA

By 
Title: Chairman

ATTEST:


Andrew O. Torres, Clerk/
County Administrator

STATE OF ARIZONA)
) ss.
County of Maricopa)

On the 15th day of December, 1986,
_____, the undersigned Notary Public,
personally appeared G. J. Gadd, Chief Deputy
State Engineer, Arizona Department of Transportation, known
to me (or satisfactorily proven) to be the person whose name
is subscribed to the within instrument and acknowledged that
he executed the same for the purposes therein contained. I
hereunto set my hand and official seal.

Jeannette Sutter
Notary Public

My Commission Expires:
My Commission Expires Nov 19, 1988

STATE OF ARIZONA)
) ss.
County of Yuma)

On the 1st day of December, 1986,
_____, the undersigned Notary Public,
personally appeared GARY MUNK, Board of
Supervisors, known to me (or satisfactorily proven) to be the
person whose name is subscribed to the within instrument and
acknowledged that he executed the same for the purposes
therein contained. I hereunto set my hand and official seal.

Beverly M. Parker
Notary Public

My Commission Expires:
March 29, 1988

APPROVED AS TO FORM:

David J. Ellsworth
David Ellsworth
Yuma County Attorney

PROJECT: I-IR-8()

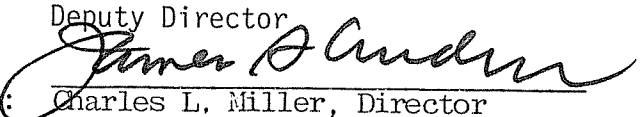
SECTION: Foothills Interchange Project

RESOLUTION

BE IT RESOLVED on this 19 day of AUGUST, 1986, that I, CHARLES L. MILLER, as Director, ARIZONA DEPARTMENT OF TRANSPORTATION, have determined that it is in the best interests of the State of Arizona that the DEPARTMENT OF TRANSPORTATION, acting by and through the Highways Division, enter into an Intergovernmental Agreement with the County of Yuma for construction of an interchange on Interstate 8 at the location where the County's Avenue 13E intersects Interstate 8, a bridge across Fortuna Wash and extension of the North Frontage Road.

THEREFORE, authorization is hereby given to draft said Agreement which, upon completion, shall be submitted for approval and execution by the State Engineer.

JAMES S. CREEDON
Deputy Director


for: Charles L. Miller, Director
Arizona Department of Transportation

STATE OF ARIZONA)
) ss.
COUNTY OF YUMA)

I, ANDREW O. TORRES, Clerk of the Board of Supervisors, do hereby certify that I am required by law to maintain custody of the minutes of the Board of Supervisors and that the following is a true and correct copy of a portion of the minutes of the Board of Supervisors meeting held December 1, 1986.

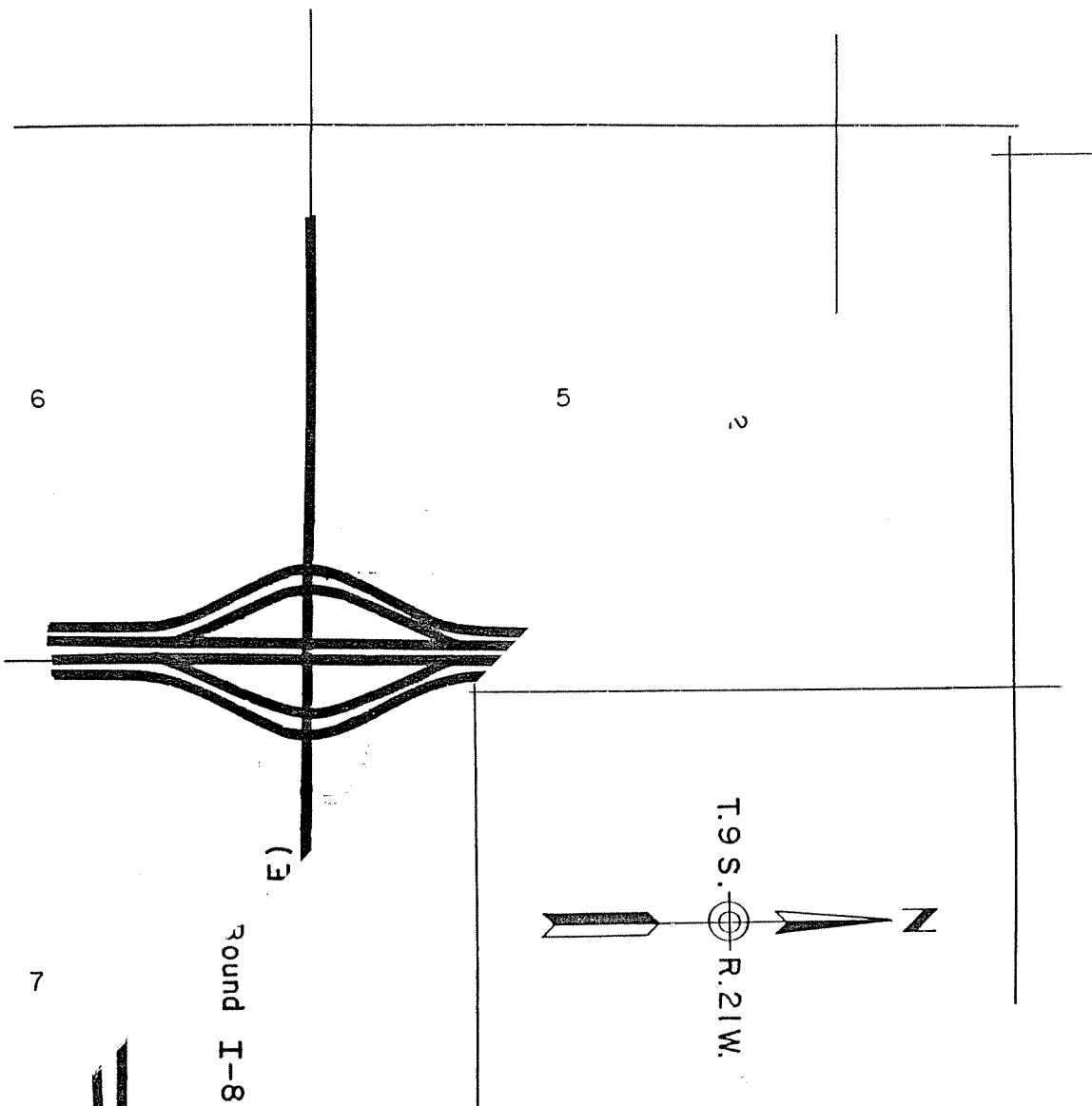
"Upon motion and unanimous vote, the Board of Supervisors entered into an Agreement between the State of Arizona and the County of Yuma covering the construction of an interchange on Interstate 8 at the location where the County's Avenue 13E intersects Interstate 8, a bridge across Fortuna Wash and extension of the North Frontage Road."

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official Seal of the Board of Supervisors. Done at Yuma, the County Seat, this 1st day of December, 1986.



Clerk of the Board of Supervisors

(SEAL)

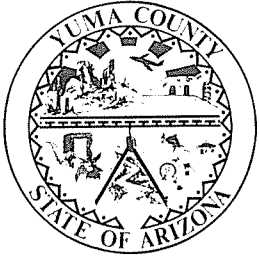


(3)

Round I-8

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OFFICE OF THE COUNTY ATTORNEY

168 S. Second Avenue

• Post Office Box 1048

• Yuma, Arizona 85364

Criminal Division
782-4534, Ext. 255

Civil Division
782-4534, Ext. 355

David S. Ellsworth
COUNTY ATTORNEY

Philip L. Hall
CHIEF DEPUTY

John K. White
CHIEF CIVIL DEPUTY

November 28, 1986

Board of Supervisors
County of Yuma
168 S. Second Avenue
Yuma, AZ 85364

Re: Interstate 8 Interchange, Fortuna Wash Bridge
and North Frontage Road Extension

Gentlemen:

As requested, I have reviewed the proposed agreement with the Arizona Department of Transportation with regard to the above-mentioned project.

The agreement is in acceptable form and is within the power and authority granted to the County under State law.

Very truly yours,

A handwritten signature in cursive script, reading "David S. Ellsworth", with a long horizontal flourish extending to the right.

David S. Ellsworth
Yuma County Attorney



Attorney General

1275 WEST WASHINGTON

Phoenix, Arizona 85007

Robert H. Corbin

INTERGOVERNMENTAL AGREEMENT

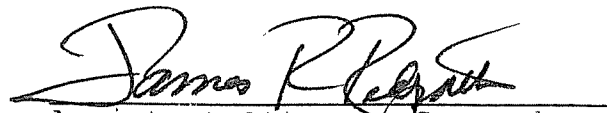
DETERMINATION

A. G. Contract No. KR86-2165, which is an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED this 17th day of December, 1986.

ROBERT K. CORBIN
Attorney General


Assistant Attorney General
Transportation Division

2018G

EXHIBIT "E"

Thursday
February 27, 1986

*See file
for complete
Exhibit*

Part IV

Uniform Relocation Assistance and Real Property Acquisition; Final Rule

Department of Agriculture
Department of Energy
National Aeronautics and Space Administration
Department of Commerce
Department of Housing and Urban Development
Department of Labor
Department of Defense
Department of Education
Pennsylvania Avenue Development Corporation
Veterans Administration
Environmental Protection Agency
General Services Administration
Department of the Interior
Department of Justice
Federal Emergency Management Agency
Department of Health and Human Services
Department of Transportation

EXHIBIT F

Issued this 20th day of February, 1986, at Washington, D.C.
Elizabeth H. Dole,
Secretary of Transportation.

PART 25—UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION FOR FEDERAL AND FEDERALLY ASSISTED PROGRAMS

Subpart A—General

- Sec.
25.1 Purpose.
25.2 Definitions.
25.3 No duplication of payments.
25.4 Assurances, monitoring and corrective action.
25.5 Manner of notices.
25.6 Administration of jointly-funded projects.
25.7 Federal agency waiver of regulations.
25.8 Compliance with other laws and regulations.
25.9 Recordkeeping and reports.
25.10 Appeals.

Subpart B—Real Property Acquisition

- 25.101 Applicability of acquisition requirements.
25.102 Basic acquisition policies.
25.103 Criteria for appraisals.
25.104 Review of appraisals.
25.105 Acquisition of tenant-owned improvements.
25.106 Expenses incidental to transfer of title to the agency.
25.107 Certain litigation expenses.
25.108 Donations.

Subpart C—General Relocation Requirements

- 25.201 Purpose.
25.202 Applicability.
25.203 Relocation notices.
25.204 Availability of comparable replacement dwelling before displacement.
25.205 Relocation assistance advisory services.
25.206 Eviction for cause.
25.207 General requirements—claims for relocation payments.
25.208 Relocation payments not considered as income.

Subpart D—Payments for Moving and Related Expenses

- 25.301 Payment for actual reasonable moving and related expenses—residential moves.
25.302 Fixed payment for moving expenses—residential moves.
25.303 Payment for actual reasonable moving and related expenses—nonresidential moves.
25.304 Fixed payment for moving expenses—nonresidential moves.
25.305 Ineligible moving and related expenses.

Subpart E—Replacement Housing Payments

- 25.401 Replacement housing payment for 180-day homeowner-occupants.
25.402 Replacement housing payment for 90-day occupants.

- 25.403 Additional rules governing replacement housing payments.

Subpart F—Mobile Homes

- 25.501 Applicability.
25.502 Moving and related expenses—mobile homes.
25.503 Replacement housing payment for 180-day mobile homeowner-occupants.
25.504 Replacement housing payment for 90-day mobile home occupants.
25.505 Additional rules governing relocation payments to mobile home occupants.

Subpart G—Last Resort Housing

- 25.601 Applicability.
25.602 Methods of providing replacement housing.

Appendix A—Additional information

Appendix B—Statistical report form.

Authority: Sec. 213, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. 91-646, 84 Stat. 1894 (42 U.S.C. 4601).

PART —UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION FOR FEDERAL AND FEDERALLY ASSIGNED PROGRAMS

Subpart A—General

- Sec.
—1 Purpose.
—2 Definitions.
—3 No duplication of payments.
—4 Assurances, monitoring and corrective action.
—5 Manner of notices.
—6 Administration of jointly-funded projects.
—7 Federal agency waiver of regulations.
—8 Compliance with other laws and regulations.
—9 Recordkeeping and reports.
—10 Appeals.

Subpart B—Real Property Acquisition

- 101 Applicability of acquisition requirements.
—102 Basic acquisition policies.
—103 Criteria for appraisals.
—104 Review of appraisals.
—105 Acquisition of tenant-owned improvements.
—106 Expenses incidental to transfer of title to the agency.
—107 Certain litigation expenses.
—108 Donations.

Subpart C—General Relocation Requirements

- 201 Purpose.
—202 Applicability.
—203 Relocation notices.
—204 Availability of comparable replacement dwelling before displacement.
—205 Relocation assistance advisory services.
—206 Eviction for cause.
—207 General requirements—claims for relocation payments.
—208 Relocation payments not considered as income.

Sec.

Subpart D—Payments for Moving and Related Expenses

- 301 Payment for actual reasonable moving and related expenses—residential moves.
—302 Fixed payment for moving expenses—residential moves.
—303 Payment for actual reasonable moving and related expenses—nonresidential moves.
—304 Fixed payment for moving expenses—nonresidential moves.
—305 Ineligible moving and related expenses.

Subpart E—Replacement Housing Payments

- 401 Replacement housing payment for 180-day homeowner-occupants.
—402 Replacement housing payment for 90-day occupants.
—403 Additional rules governing replacement housing payments.

Subpart F—Mobile Homes

- 501 Applicability.
—502 Moving and related expenses—mobile homes.
—503 Replacement housing payment for 180-day mobile homeowner-occupants.
—504 Replacement housing payments for 90-day mobile home occupants.
—505 Additional rules governing relocation payments to mobile home occupants.

Subpart G—Last Resort Housing

- 601 Applicability.
—602 Methods of providing replacement housing.

Appendix A—Additional information.

Appendix B—Statistical report form.

Subpart A—General

§—1 Purpose.

The purpose of these regulations is to promulgate rules to implement the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.), in accordance with the following objectives:

(a) To ensure that owners of real property to be acquired for Federal and federally-assisted projects are treated fairly and consistently, to encourage and expedite acquisition by agreements with such owners, to minimize litigation and relieve congestion in the courts, and to promote public confidence in Federal and federally-assisted land acquisition programs; and

(b) To ensure that persons displaced as a result of Federal or federally-assisted projects are treated fairly, consistently, and equitably so that such persons will not suffer disproportionate injuries as a result of projects designed for the benefit of the public as a whole.

§—2 Definitions.

(a) *Agency.* The term "Agency" means the Federal agency, State or State

agency which acquires the real property or displaces a person (see § 2(f)).

(b) *Business.* The term "business" means any lawful activity, except a farm operation, that is conducted:

(1) Primarily for the purchase, sale, lease, and/or rental of personal and/or real property, and/or for the manufacture, processing, and/or marketing of products, commodities, and/or any other personal property; or

(2) Primarily for the sale of services to the public; or

(3) Solely for the purpose of § 303 of these regulations, conducted primarily for outdoor advertising display purposes, when the display must be moved as a result of the project; or

(4) By a nonprofit organization that has established its nonprofit status under applicable Federal or State law.

(c) *Comparable replacement dwelling.* The term "comparable replacement dwelling" means a dwelling which is:

(1) Decent, safe, and sanitary as described in § 2(e).

(2) Functionally similar to the displacement dwelling with particular attention to the number of rooms and living space. (See Appendix A.)

(3) In an area that is not subject to unreasonable adverse environmental conditions, is not generally less desirable than the location of the displaced person's dwelling with respect to public utilities and commercial and public facilities, and is reasonably accessible to the person's place of employment.

(4) On a site that is typical in size for residential development with normal site improvements, including customary landscaping. The site need not include special improvements such as outbuildings, swimming pools, or greenhouses. (See also § 403(a) (2).)

(5) Currently available to the displaced person on the private market. However, a comparable replacement dwelling for a person receiving government housing assistance before displacement may reflect similar government housing assistance. (See Appendix A.)

(5) Within the financial means of the displaced person.

(i) A replacement dwelling purchased by a homeowner in occupancy for at least 180 days prior to initiation of negotiations (180-day homeowner) is considered to be within the homeowner's financial means if the homeowner is paid the full price differential as described at § 401(c), all increased mortgage interest costs as described at § 401(d) (for last resort housing see Appendix A, § 602) and all incidental expenses as described at § 401(e).

(ii) A replacement dwelling rented by a displaced person is considered to be within his or her financial means if the monthly rent at the replacement dwelling does not exceed the monthly rent at the displacement dwelling, after taking into account any rental assistance which the person receives under these regulations. If the cost of any utility service is included in either rent, an appropriate adjustment must be made if necessary to ensure that like circumstances are compared. For a person who paid little or no rent before displacement, the market rent of the displacement, the market rent of the displacement dwelling may be used when computing costs (see Appendix A, § 402(b) (1)).

(iii) Whenever a \$15,000 replacement housing payment under § 401 or a \$4,000 replacement housing payment under § 402 would be insufficient to ensure that a comparable replacement dwelling is available on a timely basis to a person, the Agency shall provide additional or alternative assistance under the last resort housing provisions at Subpart G, which may include increasing the replacement housing payment so that a replacement dwelling is within the displaced person's financial means.

(d) *Contribute materially.* The term "contribute materially" means that during the 2 taxable years prior to the taxable year in which displacement occurs, or during such other period as the Agency determines to be more equitable, a business or farm operation:

(1) Had average annual gross receipts of at least \$5,000; or

(2) Had average annual net earnings of at least \$1,000; or

(3) Contributed at least 33 1/3 percent of the owner's or operator's average annual gross income from all sources.

(4) If the application of the above criteria creates an inequity or hardship in any given case, the Agency may approve the use of other criteria as determined appropriate.

(e) *Decent, safe, and sanitary dwelling.* The term "decent, safe, and sanitary dwelling" means a dwelling which meets applicable housing and occupancy codes. However, any of the following standards which are not met by an applicable code shall apply, unless waived for good cause by the Federal agency funding the project. The dwelling shall:

(1) Be structurally sound, weathertight, and in good repair.

(2) Contain a safe electrical wiring system adequate for lighting and other electrical devices.

(3) Contain a heating system capable of sustaining a healthful temperature (of

approximately 70 degrees) for a displaced person, except in those areas where local climatic conditions do not require such a system.

(4) Be adequate in size with respect to the number of rooms and area of living space needed to accommodate the displaced person. There shall be a separate, well-lighted and ventilated bathroom that provides privacy to the user and contains a sink, bathtub or shower stall, and a toilet, all in good working order and properly connected to appropriate sources of water and to a sewage drainage system. In the case of a housekeeping dwelling, there shall be a kitchen area that contains a fully usable sink, properly connected to potable hot and cold water and to a sewage drainage system, and adequate space and utility service connections for a stove and refrigerator.

(5) Contains unobstructed egress to safe, open space at ground level. If the replacement dwelling unit is on the second story or above, with access directly from or through a common corridor, the common corridor must have at least two means of egress.

(6) For a displaced person who is handicapped, be free of any barriers which would preclude reasonable ingress, egress, or use of the dwelling by such displaced person.

(f) *Displaced person.*

(1) *General.* The term "displaced person" means any person (defined at § 2(m)) who moves from the real property or moves his or her personal property from the real property:

(i) As a direct result of the Agency's acquisition of such real property in whole or in part for a project. This includes any person who moved from the real property as a result of the initiation of negotiations as described at § 2(k); or

(ii) As a result of a written order from the acquiring Agency to vacate such real property for the project; or

(iii) As a result of the Agency's acquisition of, or written order to vacate, for a project, other real property on which the person conducts a business or farm operation. Eligibility as a displaced person under this subparagraph applies only for purposes of obtaining relocation assistance advisory services under § 205 and moving expenses under § 301, § 302, or § 303.

(2) *Persons not displaced.* The following is a nonexclusive listing of persons who do not qualify as a displaced person under these regulations.

(i) A person who moves before the initiation of negotiations (see also § 403(e)); or

(ii) A person who initially enters into occupancy of the property after the date of its acquisition for the project; or

(iii) A person who is not required to relocate permanently as a direct result of a project. Such determination shall be made by the Agency in accordance with any guidelines established by the Federal agency funding the project (see also Appendix A); or

(iv) A person whom the Agency determines is not displaced as a direct result of a partial acquisition; or

(v) A person who, after receiving a notice of relocation eligibility (described at § 203), is notified in writing that he or she will not be displaced for a project. Such notice shall not be issued unless the person has not moved and the Agency agrees to reimburse the person for any expenses incurred to satisfy any binding contractual relocation obligations entered into after the effective date of the notice of relocation eligibility; or

(vi) An owner-occupant who voluntarily sells his or her property (as described at § 101(a) in Appendix A) after being informed in writing that if a mutually satisfactory agreement of sale cannot be reached, the Agency will not acquire the property. In such cases, however, any resulting displacement of a tenant is subject to these regulations; or

(vii) A person who retains the right of use and occupancy of the real property for life following its acquisition by the Agency; or

(viii) A person who retains the right of use and occupancy of the real property for a fixed term after its acquisition by the Department of Interior under P.L. 93-477 or P.L. 93-303.

(g) *Dwelling*. The term "dwelling" means the place of permanent or customary and usual residence of a person, according to local custom or law, including a single family house; a single family unit in a two-family, multi-family, or multi-purpose property; a unit of a condominium or cooperative housing project; a non-housekeeping unit; a mobile home; or any other residential unit.

(h) *Farm operation*. The term "farm operation" means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

(i) *Federal agency*. The term "Federal agency" means any department, agency, or instrumentality in the Executive Branch of the Government, any wholly owned Government corporation, and the Architect of the Capitol, the Federal Reserve Banks and branches thereof.

(j) *Federal financial assistance*. The term "Federal financial assistance" means any Federal grant, loan, or contribution, except a Federal guarantee or insurance.

(k) *Initiation of negotiations*. The term "initiation of negotiations" means the delivery of the initial written offer by the Agency to the owner or the owner's representative to purchase real property for a project for the amount determined to be just compensation, unless applicable Federal program regulations specify a different action to serve this purpose. However:

(1) If the Agency issues a notice of its intent to acquire the real property, and a person moves after that notice, but before delivery of the initial written purchase offer, the "initiation of negotiations" means the date the person moves from the property. (See also § 505(c).)

(2) In the case of a permanent relocation to protect the public health and welfare, under the Comprehensive Environmental Response Compensation and Liability Act of 1980 (Pub. L. 96-510, or "Superfund") the "initiation of negotiations" means the formal announcement of such relocation or the Federal or federally-coordinated health advisory where the Federal Government later decides to conduct a permanent relocation.

(l) *Owner of displacement dwelling*. A displaced person is considered to have met the requirement to own a displacement dwelling if the person holds any of the following interests in real property acquired for a project:

(1) Fee title, a life estate, a 99-year lease, or a lease, including any options for extension, with at least 50 years to run from the date of acquisition; or

(2) An interest in a cooperative housing project which includes the right to occupy a dwelling; or

(3) A contract to purchase any of the interests or estates described in paragraphs (1) (1) or (2) of this section, or

(4) Any other interest, including a partial interest, which in the judgment of the Agency warrants consideration as ownership.

(m) *Person*. The term "person" means any individual, family, partnership, corporation, or association.

(n) *Salvage value*. The term "salvage value" means the probable sale price of an item, if offered for sale on the condition that it will be removed from

the property at the buyer's expense, allowing a reasonable period of time to find a person buying with knowledge of the uses and purposes for which it is adaptable and capable of being used, including separate use of serviceable components and scrap when there is no reasonable prospect of sale except on that basis.

(o) *State*. The term "State" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, the Trust Territories of the Pacific Islands, or a political subdivision of any of these jurisdictions.

(p) *State agency*. The term "State agency" means any department, agency or instrumentality of a State or of a political subdivision of a State, or two or more States, or of two or more political subdivisions of a State or States.

(q) *Tenant*. The term "tenant" means a person who has the temporary use and occupancy of real property owned by another.

(r) *Uniform Act*. The term "Uniform Act" means the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1894; 42 U.S.C. 4601 et seq.; Pub. L. 91-646), and amendments thereto.

§ 3 No duplication of payments.

No person shall receive any payment under these regulations if that person receives a payment under Federal, State, or local law which is determined to have the same purpose and effect as such payment under these regulations. (See Appendix A, § 3.)

§ 4 Assurances, monitoring and corrective action.

(a) *Assurances*. Before a Federal agency may approve any grant to, or contract or agreement with, a State agency under which Federal financial assistance will be made available for a project which results in real property acquisition or displacement that is subject to the Uniform Act, the State agency must provide appropriate assurances that it will comply with the Uniform Act and these regulations. A State agency's assurances under section 305 of the Uniform Act must contain specific reference to the State law which the Agency believes provides an exception to sections 301 or 302 of the Uniform Act. If, in the judgment of the Federal agency, Uniform Act compliance will be served, a State agency may provide these assurances at one time to cover all subsequent federally assisted programs or projects.

(b) *Monitoring and corrective action.* The Federal agency will monitor compliance with these regulations, and the State agency shall take whatever corrective action is necessary to comply with the Uniform Act and these regulations. The Federal agency may also apply sanctions in accordance with applicable program regulations.

(c) *Prevention of fraud, waste, and mismanagement.* The Agency shall take appropriate measures to carry out these regulations in a manner that minimizes fraud, waste, and mismanagement.

§ 5.5 Manner of notices.

Each notice which the Agency is required to provide to a property owner or occupant under these regulations, except the notice described at § 5.102(b), shall be personally served or sent by certified or registered first-class mail, return receipt requested, and documented in Agency files. Each notice shall be written in plain, understandable language. Persons who are unable to read and understand the notice must be provided with appropriate translation and counseling. Each notice shall indicate the name and telephone number of a person who may be contacted for answers to questions or other needed help.

§ 5.6 Administration of jointly funded projects.

Whenever two or more Federal agencies provide financial assistance to an Agency or Agencies to carry out functionally or geographically related activities which will result in the acquisition of property or the displacement of a person, the Federal agencies may by agreement designate one such agency as the cognizant Federal agency. At a minimum, the agreement shall set forth the federally assisted activities which are subject to its terms and cite any policies and procedures, in addition to these regulations, that are applicable to the activities under the agreement. Under the agreement, the cognizant Federal agency shall assure that the project is in compliance with the provisions of the Uniform Act and these regulations. All federally assisted activities under the agreement shall be deemed a project for the purposes of these regulations.

§ 5.7 Federal agency waiver of regulations.

The Federal agency funding the project may waive any requirement in this part not required by law if it determines that the waiver does not reduce any assistance or protection provided to an owner or displaced

person under this part. Any request for a waiver shall be justified on a case-by-case basis.

§ 5.8 Compliance with other laws and regulations.

The implementation of these regulations shall be in compliance with all applicable laws and implementing regulations, including the following:

(a) Section I of the Civil Rights Act of 1866 (42 U.S.C. 1982 et seq.).

(b) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

(c) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), as amended.

(d) The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(e) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 790 et seq.).

(f) Executive Order 12250—Leadership and Coordination of Non-Discrimination Laws.

(g) Executive Order 11063—Equal Opportunity and Housing, as amended by Executive Order 12259.

(h) Executive Order 11246—Equal Employment Opportunity.

(i) Executive Order 11625—Minority Business Enterprise.

(j) Executive Order 12259—Leadership and Coordination of Fair Housing in Federal Programs.

(k) The Flood Disaster Protection Act of 1973 (P.L. 93-234);

(l) Executive Orders 11983, Floodplain Management, and 11950, Protection of Wetlands.

(m) The Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.).

§ 5.9 Recordkeeping and reports.

(a) *Records.* The Agency shall maintain adequate records of its acquisition and displacement activities in sufficient detail to demonstrate compliance with these regulations. These records shall be retained for at least 3 years after each owner of a property and each person displaced from the property receives the final payment to which he or she is entitled under these regulations.

(b) *Confidentiality of records.* Records maintained by an Agency in accordance with these regulations are confidential regarding their use as public information, unless applicable law provides otherwise.

(c) *Reports.* The Agency shall submit a report of its real property acquisition and displacement activities under these regulations if required by the Federal agency funding the project. A report will not be required more frequently than every 3 years, or as the Uniform Act

provides, unless the Federal funding agency shows good cause.

§ 5.10 Appeals

(a) *General.* The Agency shall promptly review appeals in accordance with the requirements of applicable law and these regulations.

(b) *Actions which may be appealed.* A person may file a written appeal with the Agency in any case in which the person believes that the Agency has failed to properly determine the person's eligibility for, or the amount of, a payment required under § 5.106 or § 5.107, or a relocation payment required under these regulations. The Agency shall consider a written appeal regardless of form.

(c) *Time limit for initiating appeal.* The Agency may set a reasonable time limit for a person to file an appeal. The time limit shall not be less than 60 days after the person receives written notification of the Agency's determination on the person's claim.

(d) *Right to representation.* A person has a right to be represented by legal counsel or other representative in connection with his or her appeal, but solely at the person's own expense.

(e) *Review of files by person making appeal.* The Agency shall permit a person to inspect and copy all materials pertinent to his or her appeal, except materials which are classified as confidential by the Agency. The Agency may, however, impose reasonable conditions on the person's right to inspect, consistent with applicable laws.

(f) *Scope of review of appeal.* In deciding an appeal, the Agency shall consider all pertinent justification and other material submitted by the person, and all other available information that is needed to ensure a fair and full review of the appeal.

(g) *Determination and notification after appeal.* Promptly after receipt of all information submitted by a person in support of an appeal, the Agency shall make a written determination on the appeal, including an explanation of the basis on which the decision was made, and furnish the person a copy. If the full relief requested is not granted, the Agency shall advise the person of his or her right to seek judicial review.

(h) *Agency official to review appeal.* The Agency official conducting the review of the appeal shall be either the head of the Agency or his or her authorized designee. However, the official shall not have been directly involved in the action appealed.

Subpart B—Real Property Acquisition**§ 101 Applicability of acquisition requirements.**

(a) *General.* The requirements of this Subpart apply to any Agency acquisition of real property for a Federal or federally assisted project, except:

(1) Voluntary transactions that meet the criteria specified in Appendix A, § 101(a).

(2) The acquisition of real property from a Federal agency, State, or State agency, if the acquiring Agency does not have the authority to acquire the property through condemnation.

(b) *Less-than-full-fee interest in real property.* The requirements of this Subpart apply to the acquisition of a life estate or a life use, to acquisition by leasing where the lease term, including option(s) for extension, is 50 years or more, and to the acquisition of permanent easements. (See also Appendix A, § 101(b).)

(c) *Federally-assisted projects.* For federally-assisted projects the provisions of §§ 102, 103, 104, and 105 apply to the extent practicable under State law. (See § 4(a).)

§ 102 Basic acquisition policies.

(a) *Expeditious acquisition.* The Agency shall make every reasonable effort to acquire the real property expeditiously by negotiation.

(b) *Notice to owner.* As soon as feasible, the owner shall be notified of the Agency's interest in acquiring the real property and the basic protections provided to the owner by law and these regulations. (See also § 203.)

(c) *Appraisal and invitation to owner.* Before the initiation of negotiations, the real property shall be appraised and the owner or the owner's designated representative shall be given an opportunity to accompany the appraiser during the appraiser's inspection of the property.

(d) *Establishment and offer of just compensation.* Before the initiation of negotiations, the Agency shall establish an amount which it believes is just compensation for the real property. The amount shall not be less than the approved appraisal of the fair market value of the property, taking into account the value of allowable damages or benefits to any remaining property. (See also § 104.) Promptly thereafter, the Agency shall make a written offer to the owner to acquire the property for the full amount believed to be just compensation.

(e) *Summary statement.* Along with the initial written purchase offer, the owner shall be given a written

statement of the basis for the offer of just compensation, which shall include:

(1) A statement of the amount offered as just compensation. In the case of a partial acquisition, the compensation for the real property to be acquired and the compensation for damages, if any, to the remaining real property shall be separately stated.

(2) A description and location identification of the real property and the interest in the real property to be acquired.

(3) An identification of the buildings, structures, and other improvements (including removable building equipment and trade fixtures) which are considered to be part of the real property for which the offer of just compensation is made. Where appropriate, the statement shall identify any separately held ownership interest in the property, e.g., a tenant-owned improvement, and indicate that such interest is not covered by the offer.

(f) *Basic negotiation procedures.* The Agency shall make reasonable efforts to contact the owner or the owner's representative and (1) discuss its offer to purchase the property including the basis for the offer of just compensation, and (2) explain its acquisition policies and procedures, including its payment of incidental expenses in accordance with § 106. The owner shall be given reasonable opportunity to consider the offer and present material which the owner believes is relevant to determining the value of the property and to suggest modification in the proposed terms and conditions of the purchase. The Agency shall consider the owner's presentation.

(g) *Updating offer of just compensation.* If the information presented by the owner, or a material change in the character or condition of the property, indicates the need for new appraisal information, or if a significant delay has occurred since the time of the appraisal(s) of the property, the Agency shall have the appraisal(s) updated or obtain a new appraisal(s). If the latest appraisal information indicates that a change in the purchase offer is warranted, the Agency shall promptly reestablish just compensation and offer that amount to the owner in writing.

(h) *Coercive action.* The Agency shall not advance the time of condemnation, or offer negotiations or condemnation or the deposit of funds with the court, or take any other coercive action in order to induce an agreement on the price to be paid for the property.

(i) *Administrative settlement.* The purchase price for the property may exceed the amount offered as just compensation when reasonable efforts

to negotiate an agreement at that amount have failed and an authorized Agency official approves such administrative settlement as being reasonable, prudent, and in the public interest. When Federal funds pay for or participate in acquisition costs, a written justification shall be prepared which indicates that available information (e.g., appraisals, recent court awards, estimated trail costs, or valuation problems) supports such a settlement.

(j) *Payment before taking possession.* Before requiring the owner to surrender possession of the real property, the Agency shall—

(1) Pay the agreed purchase price to the owner; or

(2) In the case of a condemnation, deposit with the court, for the benefit of the owner, an amount not less than the Agency's approved appraisal of the fair market value of such property, or the court award of compensation in the condemnation proceeding for the property.

In exceptional circumstances, with the prior approval of the owner, the Agency may obtain a right-of-entry for construction purposes before making payment available to an owner.

(k) *Uneconomic remnant.* If the acquisition of only a portion of a property would leave the owner with an uneconomic remnant, the Agency shall offer to acquire the uneconomic remnant along with the portion of the property needed for the project. An uneconomic remnant is a remaining part of the property in which the owner is left with an interest that the Agency determines has little or no utility or value to the owner.

(l) *Inverse condemnation.* If the Agency intends to acquire any interest in real property by exercise of the power of eminent domain, it shall institute formal condemnation proceedings and not intentionally make it necessary for the owner to institute legal proceedings to prove the fact of the taking of the real property.

(m) *Fair rental.* If the Agency permits a former owner or tenant to occupy the real property after acquisition for a short term or a period subject to termination by the Agency on short notice, the rent shall not exceed the fair market rent for such occupancy.

§ 103 Criteria for appraisals.

(a) *Definition of appraisal.* An appraisal is a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a

specific date, supported by the presentation and analysis of relevant market information.

(b) *Standards of appraisal.* The format and level of documentation for an appraisal depend on the complexity of the appraisal problem. The Agency shall develop minimum standards for appraisals consistent with established and commonly accepted appraisal practice for those acquisitions which, by virtue of their low value or simplicity, do not require the in-depth analysis and presentation necessary in a detailed appraisal. A detailed appraisal shall be prepared for all other acquisitions. A detailed appraisal shall reflect nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Appraisal Standards for Federal Land Acquisition. An appraisal must contain sufficient documentation, including valuation data and the appraiser's analysis of that data, to support his or her opinion of value. At a minimum, the appraisal shall contain the following items:

(1) The purpose and/or the function of the appraisal, a definition of the estate being appraised, and a statement of the assumptions and limiting conditions affecting the appraisal.

(2) An adequate description of the physical characteristics of the property being appraised (and, in the case of a partial acquisition, and adequate description of the remaining property), a statement of the known and observed encumbrances, if any, title information, location, zoning, present use, an analysis of highest and best use, and at least a 5-year sales history of the property.

(3) All relevant and reliable approaches to value consistent with commonly accepted professional appraisal practices. When sufficient market sales data are available to reliably support the fair market value for the specific appraisal problem encountered, the Agency, at its discretion, may require only the market approach. If more than one approach is utilized, there shall be an analysis and reconciliation of approaches to value that are sufficient to support the appraiser's opinion of value.

(4) A description of comparable sales, including a description of all relevant physical, legal, and economic factors such as parties to the transaction, source and method of financing, and verification by a party involved in the transaction.

(5) A statement of the value of the real property to be acquired and, for a partial acquisition, a statement of the value of the damages and benefits, if any, to the remaining real property.

(6) The effective date of valuation, date of appraisal, signature, and certification of the appraiser.

(c) *Influence of the project on just compensation.* To the extent permitted by applicable law, the appraiser shall disregard any decrease or increase in the fair market value of the real property caused by the project for which the property is to be acquired, or by the likelihood that the property would be acquired for the project, other than that due to physical deterioration within the reasonable control of the owner.

(d) *Owner retention of improvements.* If the owner of a real property improvement is permitted to retain it for removal from the project site, the amount to be offered for the interest in the real property to be acquired shall be not less than the difference between the amount determined to be just compensation for the owner's entire interest in the real property and the salvage value (defined at § 2(n)) of the retained improvement.

(e) *Qualifications of appraisers.* The Agency shall establish criteria for determining the minimum qualifications of appraisers. Appraiser qualifications shall be consistent with the level of difficulty of the appraisal assignment. The Agency shall review the experience, education training, and other qualifications of appraisers, including review appraisers, and utilize only those determined to be qualified.

(f) *Conflict of interest.* No appraiser or review appraiser shall have any interest, direct or indirect, in the real property being appraised for the Agency that would in any way conflict with the preparation or review of the appraisal. Compensation for making an appraisal shall not be based on the amount of the valuation. No appraiser shall act as a negotiator for real property which that person has appraised, except that the Agency may permit the same person to both appraise and negotiate an acquisition where the value of the acquisition is \$2,500, or less.

§ 104 Review of appraisals.

The Agency shall have an appraisal review process and, at a minimum:

(a) A qualified reviewing appraiser shall examine all appraisals to assure that they met applicable appraisal requirements and shall, prior to acceptance, seek necessary corrections or revisions.

(b) If the reviewing appraiser is unable to approve or recommend approval of an appraisal as an adequate basis for the establishment of just compensation, and it is determined that it is not practical to obtain an additional appraisal, the reviewing appraiser may

develop appraisal documentation in accordance with § 103 to support an approved or recommended value.

(c) The review appraiser's certification of the recommended or approved value of the property shall be set forth in a signed statement which identifies the appraisal reports reviewed and explains the basis for such recommendation or approval. Any damages or benefits to any remaining property shall also be identified in the statement.

§ 105 Acquisition of tenant-owned improvements.

(a) *Acquisition of Improvements.* When acquiring any interest in real property, the Agency shall offer to acquire at least an equal interest in all buildings, structures, or other improvements located upon the real property to be acquired, which it requires to be removed or which it determines will be adversely affected by the use to which such real property will be put. This shall include any improvement of a tenant-owner who has the right or obligation to remove the improvement at the expiration of the lease term.

(b) *Improvements considered to be real property.* Any building, structure, or other improvement, which would be considered to be real property if owned by the owner of the real property on which it is located, shall be considered to be real property for purposes of this Subpart.

(c) *Appraisal and establishment of just compensation for tenant-owned improvements.* Just compensation for a tenant-owned improvement is the amount which the improvement contributes to the fair market value of the whole property or its salvage value, whichever is greater. (Salvage value is defined at § 2(n).)

(d) *Special conditions.* No payment shall be made to a tenant-owner for any real property improvement unless:

(1) The tenant-owner, in consideration for the payment, assigns, transfers, and releases to the Agency all of the tenant-owner's right, title, and interest in the improvement; and

(2) The owner of the real property on which the improvement is located disclaims all interest in the improvement; and

(3) The payment does not result in the duplication of any compensation otherwise authorized by law.

(e) *Alternative compensation.* Nothing in this Subpart shall be construed to deprive the tenant-owner of any right to reject payment under this Subpart and to obtain payment for such property

interests in accordance with other applicable law.

§ 106 Expenses incidental to transfer of title to the Agency.

The owner of the real property shall be reimbursed for all reasonable expenses the owner necessarily incurred for:

(a) Recording fees, transfer taxes, documentary stamps, evidence of title, boundary surveys, legal descriptions of the real property, and similar expenses incidental to conveying the real property to the Agency. However, the Agency is not required to pay costs solely required to perfect the owner's title to the real property; and

(b) Penalty costs and other charges for prepayment of any preexisting recorded mortgage entered into in good faith encumbering the real property; and

(c) The pro rata portion of any prepaid real property taxes which are allocable to the period after the Agency obtains title to the property or effective possession of it, whichever is earlier.

Whenever feasible, the Agency shall pay these costs directly so that the owner will not have to pay such costs and then seek reimbursement from the Agency.

§ 107 Certain litigation expenses.

The owner of the real property shall be reimbursed for any reasonable expenses, including reasonable attorney, appraisal, and engineering fees, which the owner actually incurred because of a condemnation proceeding, if:

(a) The final judgment of the court is that the Agency cannot acquire the real property by condemnation; or

(b) The condemnation proceeding is abandoned by the Agency other than under an agreed-upon settlement; or

(c) The court having jurisdiction renders a judgment in favor of the owner in an inverse condemnation proceeding or the Agency effects a settlement of such proceeding.

§ 108 Donations.

Nothing in these regulations shall prevent a person, after being informed of the right to receive just compensation, based on an appraisal of the real property, from making a gift or donation of real property or any part thereof, or any interest therein, or of any compensation paid therefor, to the Agency. The Agency is responsible for assuring that an appraisal of the real property is obtained unless the owner releases the Agency from such obligation.

Subpart C—General Relocation Requirements

§ 201 Purpose.

This Subpart prescribes general requirements governing the provision of relocation payments and other relocation assistance under the regulations in this Part.

§ 202 Applicability.

These requirements apply to the relocation of any displaced person as defined at § 2(f).

§ 203 Relocation notices.

(a) *General information notice.* As soon as feasible, a person scheduled to be displaced shall be furnished with a general written description of the Agency's relocation program which does at least the following:

(1) Informs the person that he or she may be displaced for the project and generally describes the relocation payment(s) for which the person may be eligible, the basic conditions of eligibility, and the procedures for obtaining the payment(s).

(2) Informs the person that he or she will be given reasonable relocation advisory services, including referrals to replacement properties, help in filing payment claims, and other necessary assistance to help the person successfully relocate.

(3) Informs the person that he or she will not be required to move without at least 90 days' advance written notice (see paragraph (c) of this section), and informs any person to be displaced from a dwelling that he or she cannot be required to move permanently unless at least one comparable replacement dwelling has been made available.

(4) Describes the person's right to appeal the Agency's determination as to eligibility for, or the amount of, any relocation payment for which the person may be eligible.

(b) *Notice of relocation eligibility.* Eligibility for relocation assistance shall begin on the date of initiation of negotiations (defined in § 2(k)) for the occupied property. When this occurs, the Agency shall promptly notify all occupants in writing of their eligibility for applicable relocation assistance.

(c) Ninety-day notice.

(1) *General.* No lawful occupant shall be required to move unless he or she has received at least 90 days advance written notice of the earliest date by which he or she may be required to move.

(2) *Timing of notice.* The displacing agency may issue the notice 90 days before it expects the person to be displaced or earlier.

(3) *Content of notice.* The 90-day notice shall either state a specific date as the earliest date by which the occupant may be required to move, or state that the occupant will receive a further notice indicating, at least 30 days in advance, the specific date by which he or she must move. If the 90-day notice is issued before a comparable replacement dwelling is made available, the notice must state clearly that the occupant will not have to move earlier than 90 days after such a dwelling is made available. (See § 204(a).)

(4) *Urgent need.* In unusual circumstances, an occupant may be required to vacate the property on less than 90 days advance written notice if the Agency determines that a 90-day notice is impracticable, such as when the person's continued occupancy of the property would constitute a substantial danger to health or safety. A copy of the Agency's determination shall be included in the applicable case file.

§ 204 Availability of comparable replacement dwelling before displacement.

(a) *General.* No person to be displaced shall be required to move from his or her dwelling unless at least one comparable replacement dwelling (defined at § 2(c)) has been made available to the person. Where possible, three or more comparable replacement dwellings shall be made available. A comparable replacement dwelling will be considered to have been made available to a person, if:

(1) The person is informed of its location; and

(2) The person has sufficient time to negotiate and enter into a purchase agreement or lease for the property; and

(3) Subject to reasonable safeguards, the person is assured of receiving the relocation assistance and acquisition payment to which the person is entitled in sufficient time to complete the purchase or lease of the property.

(b) *Circumstances permitting waiver.* The Federal agency funding the project may grant a waiver of the policy in paragraph (a) of this section in any case where it is demonstrated that a person must move because of:

(1) A major disaster as defined in section 102(c) of the Disaster Relief Act of 1974 (42 U.S.C. 5121); or

(2) A presidentially declared national emergency; or

(3) Another emergency which requires immediate vacation of the real property, such as when continued occupancy of the displacement dwelling constitutes a substantial danger to the health or safety of the occupants or the public.

(c) *Basic conditions of emergency move.* Whenever a person is required to relocate for a temporary period because of an emergency as described in paragraph (b) of this section, the Agency shall:

(1) Take whatever steps are necessary to assure that the person is temporarily relocated to a decent, safe, and sanitary dwelling; and

(2) Pay the actual reasonable out-of-pocket moving expenses and any reasonable increase in monthly housing costs incurred in connection with the temporary relocation; and

(3) Make available to the displaced person as soon as feasible, at least one comparable replacement dwelling. (For purposes for filing a claim and meeting the eligibility requirements for a relocation payment, the date of displacement is the date the person moves from the temporarily-occupied dwelling.)

§ 205 Relocation assistance advisory services.

(a) *General.* The Agency shall carry out a relocation assistance advisory program which satisfies the requirements of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), and Executive Order 11063 (27 FR 11527), and offers the services described in paragraph (b) of this Section. If the Agency determines that a person occupying property adjacent to the real property acquired for the project has caused substantial economic injury because of such acquisition, it may offer the services to such person.

(b) *Services to be provided.* The advisory program shall include such measures, facilities, and services as may be necessary or appropriate in order to:

(1) Determine the relocation needs and preferences of each person to be displaced and explain the relocation payments and other assistance for which the person may be eligible, the related eligibility requirements, and the procedures for obtaining such assistance. This shall include a personal interview with each person.

(2) Provide current and continuing information on the availability, purchase prices, and rental costs of comparable replacement dwellings, and explain that the person cannot be required to move unless at least one comparable replacement dwelling is made available as set forth in § 204(a).

(i) As soon as feasible, the Agency shall inform the person in writing of the specific comparable replacement dwelling and the price or rent used for establishing the upper limit of the

replacement housing payment (see § 403 (a) and (b)) and the basis for the determination, so that the person is aware of the maximum replacement housing payment for which he or she may qualify.

(ii) Where feasible, housing shall be inspected prior to being made available to assure that it meets applicable standards. (See § 2 (c) and (e).) If such an inspection is not made, the person to be displaced shall be notified that a replacement housing payment may not be made unless the replacement dwelling is subsequently inspected and determined to be decent, safe, and sanitary.

(iii) Whenever possible, minority persons shall be given reasonable opportunities to relocate to decent, safe, and sanitary replacement dwellings, not located in an area of minority concentration, that are within their financial means. This policy, however, does not require an Agency to provide a person a larger payment than is necessary to enable a person to relocate to a comparable replacement dwelling.

(iv) All persons, especially the elderly and handicapped, shall be offered transportation to inspect housing to which they are referred.

(3) Provide current and continuing information on the availability, purchase prices, and rental costs of comparable and suitable commercial and farm properties and locations. Assist any person displaced from a business or farm operation to obtain and become established in a suitable replacement location.

(4) Minimize hardships to persons in adjusting to relocation by providing counseling, advice as to other sources of assistance that may be available, and such other help as may be appropriate.

(5) Supply persons to be displaced with appropriate information concerning Federal and State housing programs, disaster loans and other programs administered by the Small Business Administration, and other Federal and State programs offering assistance to persons to be displaced.

(c) *Coordination of relocation activities.* Relocation activities shall be coordinated with project work and other displacement-causing activities to ensure that, to the extent feasible, persons displaced receive consistent treatment and the duplication of functions is minimized.

§ 206 Eviction for cause.

Eviction for cause must conform to applicable State and local law. Any person who has lawfully occupied the real property, but who is later evicted

for cause on or after the date of the initiation of negotiations, retains the right to the relocation payments and other assistance set forth in these regulations. For purposes of determining eligibility for relocation payments, the date of displacement is the date the person moves or the date a comparable replacement dwelling is made available, whichever is later.

§ 207 General requirements—claims for relocation payments.

(a) *Documentation.* Any claim for a relocation payment shall be supported by such documentation as may be reasonably required to support expenses incurred, such as bills, certified prices, appraisals, or other evidence of such expenses. A displaced person must be provided reasonable assistance necessary to complete and file any required claim for payment.

(b) *Expeditious payments.* The Agency shall review claims in an expeditious manner. The claimant shall be promptly notified as to any additional documentation that is required to support the claim. Payment for a claim shall be made as soon as feasible following receipt of sufficient documentation to support the claim.

(c) *Advance payments.* If a person demonstrates the need for an advance relocation payment in order to avoid or reduce a hardship, the Agency shall issue the payment, subject to such safeguards as are appropriate to ensure that the objective of the payment is accomplished.

(d) *Time for filing.* All claims for a relocation payment shall be filed with the Agency within 18 months after:

(1) For tenants, the date of displacement;

(2) For owners, the date of displacement or the date of the final payment for the acquisition of the real property, whichever is later.

This time period shall be waived by the Agency for good cause.

(c) *Multiple occupants of one displacement dwelling.* If two or more occupants of the displacement dwelling move to separate replacement dwellings, each occupant is entitled to a reasonable prorated share, as determined by the Agency, of any relocation payments that would have been made if the occupants moved together to a comparable replacement dwelling. However, if the Agency determines that two or more occupants maintained separate households within the same dwelling, such occupants have separate entitlements to relocation payments.

(f) *Deductions from relocation payments.* An Agency shall deduct the amount of any advance relocation payment from the relocation payment(s) to which a displaced person is otherwise entitled. Similarly, a Federal agency shall, and a State agency may, deduct from relocation payments any rent that the displaced person owes the Agency; provided that no deduction shall be made if it would prevent the displaced person from obtaining a comparable replacement dwelling as required by § 204 of these regulations. The Agency shall not withhold any part of a relocation payment to a displaced person to satisfy an obligation to any other creditor.

(g) *Notice of denial of claim.* If the Agency disapproves all or part of a payment claimed or refuses to consider the claim on its merits because of untimely filing or other grounds, it shall promptly notify the claimant in writing of its determination, the basis for its determination, and the procedures for appealing that determination.

§ 203 Relocation payments not considered as income.

No relocation payment received by a displaced person under these regulations shall be considered as income for the purpose of the Internal Revenue Code of 1954, or for the purpose of determining the eligibility or the extent of eligibility of any person for assistance under the Social Security Act or any other Federal law.

Subpart D—Payment for Moving and Related Expenses

§ 301 Payment for actual reasonable moving and related expenses—residential moves.

Any displaced owner-occupant or tenant of a dwelling who qualifies as a displaced person (defined at § 2(f)) is entitled to payment of his or her actual moving and related expenses, as the Agency determines to be reasonable and necessary, including expenses for:

(a) Transportation of the displaced person and personal property. Transportation costs for a distance beyond 50 miles are not eligible, unless the Agency determines that relocation beyond 50 miles is justified.

(b) Packing, crating, unpacking, and uncrating of the personal property.

(c) Disconnecting, dismantling, removing, reassembling, and reinstalling relocated household appliances, and other personal property.

(d) Storage of the personal property for a period not to exceed 12 months, unless the Agency determines that a longer period is necessary.

(e) Insurance for the replacement value of the property in connection with the move and necessary storage.

(f) The replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his or her agent, or employee) where insurance covering such loss, theft, or damage is not reasonably available.

(g) Other moving-related expenses that are not listed as ineligible under § 305, as the Agency determines to be reasonable and necessary.

§ 302 Fixed payment for moving expenses—residential moves.

Any person displaced from a dwelling, or a seasonal residence, is entitled to receive a fixed payment in lieu of a payment for actual moving and related expenses under § 301, that consists of:

(a) A moving expense allowance not to exceed \$300 which shall be determined in accordance with the applicable moving allowance schedule approved by the Federal Highway Administration; and

(b) A dislocation allowance of \$200.

§ 303 Payment for actual reasonable moving and related expenses—nonresidential moves.

(a) *Eligible costs.* Any business or farm operation which qualifies as a displaced person (defined at § 2(f)) is entitled to payment for such actual moving and related expenses, as the Agency determines to be reasonable and necessary, including expenses for:

(1) Transportation of personal property. Transportation costs for a distance beyond 50 miles are not eligible, unless the Agency determines that relocation beyond 50 miles is justified.

(2) Packing, crating, unpacking, and uncrating of the personal property.

(3) Disconnecting, dismantling, removing, reassembling, and reinstalling relocated machinery, equipment, and other personal property, including substitute personal property described at § 303(a)(12). This includes connection to utilities available nearby. It also includes modifications to the personal property necessary to adapt it to the replacement structure, the replacement site, or the utilities at the replacement site, and modifications necessary to adapt the utilities at the replacement site to the personal property. (Expenses for providing utilities from the right-of-way to the building or improvement are excluded.)

(4) Storage of the personal property for a period not to exceed 12 months,

unless the Agency determines that a longer period is necessary.

(5) Insurance for the replacement value of the personal property in connection with the move and necessary storage.

(6) Any license, permit, or certification required of the displaced person at the replacement location. However, the payment may be based on the remaining useful life of the existing license, permit, or certification.

(7) The replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his or her agent, or employee) where insurance covering such loss, theft, or damage is not reasonably available.

(8) Professional services necessary for—

(i) Planning the move of the personal property;

(ii) Moving the personal property; and

(iii) Installing the relocated personal property at the replacement location.

(9) Relettering signs and replacing stationery on hand at the time of displacement that are made obsolete as a result of the move.

(10) Actual direct loss of tangible personal property incurred as a result of moving or discontinuing the business or farm operation. The payment shall consist of the lesser of:

(i) The fair market value of the item for continued use at the displacement site, less the proceeds from its sale. (To be eligible for payment, the claimant must make a good faith effort to sell the personal property, unless the Agency determines that such effort is not necessary. When payment for property loss is claimed for goods held for sale, the fair market value shall be based on the cost of goods to the business, not the potential selling price.); or

(ii) The estimated cost of moving the item, but with no allowance for storage. (If the business or farm operation is discontinued, the estimated cost shall be based on a moving distance of 50 miles.)

(11) The reasonable cost incurred in attempting to sell an item that is not to be relocated.

(12) Purchase of substitute personal property. If an item of personal property which is used as part of a business or farm operation is not moved but is promptly replaced with a substitute item that performs a comparable function at the replacement site, the displaced person is entitled to payment of the lesser of:

(i) The cost of the substitute item, including installation costs at the replacement site, minus any proceeds

from the sale or trade-in of the replaced item; or

(ii) The estimated cost of moving and reinstalling the replaced item but with no allowance for storage. At the Agency's discretion, the estimated cost for a low cost or uncomplicated move may be based on a single bid or estimate.

(13) Searching for a replacement location. A displaced business or farm operation is entitled to reimbursement for actual expenses, not to exceed \$1,000, as the Agency determines to be reasonable, which are incurred in searching for a replacement location, including:

- (i) Transportation.
 - (ii) Meals and lodging away from home.
 - (iii) Time spent searching, based on reasonable salary or earnings.
 - (iv) Fees paid to a real estate agent or broker to locate a replacement site, exclusive of any fees or commissions related to the purchase of such site.
- (14) Other moving-related expenses that are not listed as ineligible under § 2.305, as the Agency determines to be reasonable and necessary.

(b) *Notification and inspection.* The following requirements apply to payments under this section:

(1) The Agency shall inform the displaced person, in writing, of the requirements of paragraphs (b) (2) and (3) of this section as soon as possible after the initiation of negotiations. This information may be included in the relocation information provided to the displaced person as set forth in § 2.203.

(2) The displaced person must provide the Agency reasonable advance written notice of the approximate date of the start of the move or disposition of the personal property and a list of the items to be moved. However, the Agency may waive this notice requirement after documenting its file accordingly.

(3) The displaced person must permit the Agency to make reasonable and timely inspections of the personal property at both the displacement and replacement sites and to monitor the move.

(c) *Self-moves.* If the displaced person elects to take full responsibility for the move of the business or farm operation, the Agency may make a payment for the person's moving expenses in an amount not to exceed the lower of two acceptable bids or estimates obtained by the Agency or prepared by qualified staff. At the Agency's discretion, a payment for a low cost or uncomplicated move may be based on a single bid or estimate.

(d) *Transfer of ownership.* Upon request and in accordance with

applicable law, the claimant shall transfer to the Agency ownership of any personal property that has not been moved, sold, or traded in.

(e) *Advertising signs.* The amount of a payment for direct loss of an advertising sign which is personal property shall be the lesser of:

- (1) The depreciated reproduction cost of the sign, as determined by the Agency, less the proceeds from its sale; or
- (2) The estimated cost of moving the sign, but with no allowance for storage.

§ 2.304 Fixed payment for moving expenses—Nonresidential moves.

(a) *Business.* A displaced business (except an outdoor advertising display business or a nonprofit organization) may be eligible to choose a fixed payment in lieu of a payment for actual moving and related expenses. The payment shall equal the average annual net earnings of the business, as computed in accordance with paragraph (e) of this section, but not less than \$2,500 nor more than \$10,000. The displaced business is eligible for the payment if the Agency determined that:

(1) The business cannot be relocated without a substantial loss of its existing patronage (clientele or net earnings). A business is assumed to meet this test unless the Agency demonstrates that it will not suffer a substantial loss of its existing patronage; and

(2) The business is not part of a commercial enterprise having another establishment, which is not being acquired by the Agency, and which is under the same ownership and engaged in the same or similar business activities. (For purposes of this rule a remaining business facility that did not contribute materially to the income of the displaced person during the 2 taxable years prior to displacement shall not be considered "another establishment."); and

(3) The business contributed materially to the income of the displaced person during the 2 taxable years prior to displacement (see § 2.2(d)).

(b) *Determining the number of businesses.* In determining whether two or more displaced legal entities constitute a single business which is entitled to only one fixed payment, all pertinent factors shall be considered, including the extent to which:

(1) The same premises and equipment are shared;

(2) Substantially identical or interrelated business functions are carried out and business and financial affairs are commingled;

(3) The entities are held out to the public, and to those customarily dealing with them, as one business; and

(4) The same person or closely related persons own, control, or manage the affairs of the entities.

(c) *Farm operation.* A displaced farm operation (defined at § 2.2(h)) may choose a fixed payment in lieu of a payment for actual moving and related expenses in an amount equal to its average annual net earnings as computed in accordance with paragraph (e) of this section, but not less than \$2,500 nor more than \$10,000. In the case of a partial acquisition of land which was a farm operation before the acquisition, the fixed payment shall be made only if the Agency determines that:

(1) The acquisition of part of the land caused the operator to be displaced from the farm operation on the remaining land; or

(2) The partial acquisition caused a substantial change in the nature of the farm operation.

(d) *Nonprofit organization.* A displaced nonprofit organization may choose a fixed payment in lieu of a payment for actual moving and related expenses of \$2,500, if the Agency determines that it:

(1) Cannot be relocated without a substantial loss of existing patronage (membership or clientele). A nonprofit organization is assumed to meet this test, unless the Agency demonstrates otherwise; and

(2) Is not part of an enterprise having at least one other establishment engaged in the same or similar activity which is not being acquired by the Agency.

(e) *Average annual net earnings of a business or farm operation.* The average annual net earnings of a business or farm operation are one-half of its net earnings before Federal, State, and local income taxes during the 2 taxable years immediately prior to the taxable year in which it was displaced. If the business or farm was not in operation for the full 2 taxable years prior to displacement, net earnings shall be based on the actual period of operation at the displacement site during the 2 taxable years prior to displacement, projected to an annual rate. Average annual net earnings may be based upon a different period of time when the Agency determines it to be more equitable. Net earnings include any compensation obtained from the business or farm operation by its owner, the owner's spouse, and dependents. The displaced person shall furnish the Agency proof of net earnings through income tax returns, certified financial statements, or other

reasonable evidence which the Agency determines is satisfactory.

§ 405 Ineligible moving and related expenses.

A displaced person is not entitled to payment for:

- (a) The cost of moving any structure or other real property improvement in which the displaced person reserved ownership. However, this rule does not preclude the computation under § 401(c)(4)(iii); or
- (b) Interest on a loan to cover moving expenses; or
- (c) Loss of goodwill; or
- (d) Loss of profits; or
- (e) Loss of trained employees; or
- (f) Any additional operating expenses of a business or farm operation incurred because of operating in a new location; or
- (g) Personal injury; or
- (h) Any legal fee or other cost for preparing a claim for a relocation payment or for representing the claimant before the Agency; or
- (i) Expenses for searching for a replacement dwelling; or
- (j) Physical changes to the real property at the replacement location of a business or farm operation except as provided in § 303(a)(3); or
- (k) Costs for storage of personal property on real property already owned or leased by the displaced person.

Subpart E—Replacement Housing Payments

§ 401 Replacement housing payment for 180-day homeowner-occupants.

(a) *Eligibility.* A displaced person is eligible for the replacement housing payment for a 180-day homeowner-occupant if the person:

(1) Has actually owned and occupied the displacement dwelling for not less than 180 days immediately prior to the initiation of negotiations; and

(2) Purchases and occupies a decent, safe, and sanitary replacement dwelling within 1 year after the later of:

(i) The date the person receives final payment for the displacement dwelling or, in the case of condemnation, the date the required amount is deposited in the court; or

(ii) The date the person moves from the displacement dwelling.

(b) *Amount of payment.* The replacement housing payment for an eligible 180-day homeowner-occupant may not exceed \$15,000. (See also § 403(b).) The payment shall be the sum of:

(1) The amount by which the cost of a replacement dwelling exceeds the acquisition cost of the displacement

dwellings, as determined in accordance with paragraph (c) of this section; and

(2) The increased interest costs and other debt service costs to be incurred in connection with the mortgage(s) on the replacement dwelling, as determined in accordance with paragraph (d) of this section; and

(3) The reasonable expenses incidental to the purchase of the replacement dwelling, as determined in accordance with paragraph (e) of this section.

(c) *Price differential.*

(1) *Determination of price differential.* The price differential to be paid under paragraph (b)(1) of this section is the amount which must be added to the acquisition cost of the displacement dwelling to provide a total amount equal to the lesser of:

(i) The reasonable cost of a comparable replacement dwelling as determined in accordance with § 403(a); or

(ii) The purchase price of the decent, safe, and sanitary replacement dwelling actually purchased and occupied by the displaced person.

(2) *Mixed-use and multifamily properties.* If the displacement dwelling was part of a property that contained another dwelling unit and/or space used for non-residential purposes, and/or is located on a lot larger than typical for residential purposes, only that portion of the acquisition payment which is actually attributable to the displacement dwelling shall be considered its acquisition cost when computing the price differential.

(3) *Insurance proceeds.* To the extent necessary to avoid duplicate compensation, the amount of any insurance proceeds received by a person in connection with a loss to the displacement dwelling due to a catastrophic occurrence (fire, flood, etc.) shall be included in the acquisition cost of the displacement dwelling when computing the price differential. (Also see § 3.)

(4) *Owner retention of displacement dwelling.* If the owner retains ownership of his or her dwelling, moves it from the displacement site, and reoccupies it on a replacement site, the purchase price of the replacement dwelling, shall be the sum of:

(i) The cost of moving and restoring the dwelling to a condition comparable to that prior to the move; and

(ii) The cost of making the unit a decent, safe, and sanitary replacement dwelling (defined at § 2(e)); and

(iii) The current fair market value for residential use of the replacement site (see Appendix A, § 401(c)(4)(iii)), unless the claimant rented the

displacement site and there is a reasonable opportunity for the claimant to rent a suitable replacement site; and

(iv) The retention value of the dwelling, if such retention value is reflected in the "acquisition cost" used when computing the replacement housing payment.

(d) *Increased mortgage interest costs.*

The amount to be paid under § 401(b)(2) is the sum of the present value of the following two items: The increase in interest costs that result when the mortgage interest rate on the replacement dwelling exceeds the mortgage interest rate on the displacement dwelling, and other debt service costs. The following rules apply to the computation:

(1) The payment shall be based only on bona fide mortgages that were a valid lien on the displacement dwelling for at least 180 days prior to the initiation of negotiations. All such mortgages on the displacement dwelling shall be used to compute the payment.

(2) The payment shall be based on the unpaid mortgage balance on the displacement dwelling or the new mortgage amount, whichever is less.

(3) The payment shall be based on the remaining term of the mortgage on the displacement dwelling or the actual term of the new mortgage, whichever is shorter.

(4) The interest charge on the new mortgage shall not exceed the prevailing interest rate currently charged by mortgage lending institutions in the area in which the replacement dwelling is located.

(5) The present value of the increased interest costs shall be computed at the prevailing interest rate paid on savings deposits by commercial banks in the area in which the replacement dwelling is located.

(6) Purchaser's points and loan origination or assumption fees, but not seller's points, shall be paid to the extent—

(i) They are not paid as incidental expenses;

(ii) They do not exceed rates normal to similar real estate transactions in the area; and

(iii) The Agency determines them to be necessary.

The computation of such points and fees shall be based on the unpaid mortgage balance on the displacement dwelling or the new mortgage amount, whichever is less.

(e) *Incidental expenses.* The incidental expenses to be paid under paragraph (b)(3) of this section or § 402(c)(1) are those necessary and reasonable costs actually incurred by

the displaced person incident to the purchase of a replacement dwelling, and customarily paid by the buyer, including:

(1) Legal, closing, and related costs, including those for title search, preparing conveyance instruments, notary fees, preparing surveys and plats, and recording fees.

(2) Lender, FHA, or VA application and appraisal fees.

(3) Loan origination or assumption fees that do not represent prepaid interest.

(4) Certification of structural soundness and termite inspection when required.

(5) Credit report.

(6) Owner's and mortgagee's evidence of title, e.g., title insurance, not to exceed the costs for a comparable replacement dwelling.

(7) Escrow agent's fee.

(8) State revenue or documentary stamps, sales or transfer taxes (not to exceed the costs for a comparable replacement dwelling).

(9) Such other costs as the Agency determines to be incidental to the purchase.

(f) *Rental assistance payment for 180-day homeowner.*

A 180-day homeowner-occupant, who is eligible for a replacement housing payment under § 401(a) but elects to rent a replacement dwelling, is eligible for a rental assistance payment not to exceed \$4,000, computed and disbursed in accordance with § 402(b).

§ 402 Replacement housing payment for 90-day occupants.

(a) *Eligibility.* A tenant or owner-occupant displaced from a dwelling is entitled to a payment not to exceed \$4,000 for rental assistance, as computed in accordance with paragraph (b) of this section, or downpayment assistance, as computed in accordance with paragraph (c) of this section, if such displaced person:

(1) Has actually and lawfully occupied the displacement dwelling for at least 90 days immediately prior to the initiation of negotiations; and

(2) Has rented, or purchased, and occupied a decent, safe, and sanitary replacement dwelling within 1 year (unless the Agency extends this period for good cause) after:

(i) For a tenant, the date he or she moves from the displacement dwelling, or

(ii) For an owner-occupant, the later of:

(A) The date he or she receives final payment for the displacement dwelling, or in the case of condemnation, the date

the required amount is deposited with the court; or

(B) The date he or she moves from the displacement dwelling.

(b) *Rental assistance payment.*

(1) *Amount of payment.* An eligible displaced person who rents a replacement dwelling is entitled to a payment not to exceed \$4,000 for rental assistance. (See also § 403(b).) Such payment shall be 48 times the amount obtained by subtracting the average monthly rent of the displacement dwelling for a reasonable period prior to displacement, as determined by the Agency (for an owner-occupant or tenant who pays little or no rent, the average cost for rent shall be the fair market rent; see Appendix A, Subpart E), from the lesser of:

(i) The monthly rent for a comparable replacement dwelling; or

(ii) The monthly rent for the decent, safe, and sanitary replacement dwelling actually occupied by the displaced person.

(2) *Utility services.* Any utility service which is included in the monthly rent for either the displacement dwelling or the comparable replacement dwelling must be included when computing the rental assistance payment. Appropriate adjustments to reflect the cost of utility services shall be made, if necessary to ensure that like circumstances are compared.

(3) *Manner of disbursement.* The payment under this section shall be disbursed in a lump sum, unless the Agency determines on a case-by-case basis, for good cause, that the payment should be made in installments.

(c) *Downpayment assistance payment.*

(1) *Amount of payment.* An eligible displaced person who purchases a replacement dwelling is entitled to a payment for downpayment assistance not to exceed \$4,000. Such payment shall be the full amount of the first \$2,000 of the required downpayment and incidental expenses (see § 401(e)) plus one-half of any amount required over \$2,000, provided that the displaced person matches equally the amount in excess of \$2,000. A displaced person eligible to receive a replacement housing payment for a 180-day homeowner-occupant under § 401 is not eligible for this payment.

(2) *Required downpayment.* For purposes of this section, the term "required downpayment" means the downpayment ordinarily required to obtain conventional loan financing for the decent, safe, and sanitary dwelling actually purchased and occupied. However, if the downpayment actually required of a displaced person for the

purchase of the replacement dwelling exceeds the amount ordinarily required, the amount of the "required downpayment" shall be the amount which the Agency determines is necessary for the downpayment.

(3) *Application of payment.* The full amount of the replacement housing payment for downpayment assistance must be applied to the purchase price of the replacement dwelling and related incidental expenses.

§ 403 Additional rules governing replacement housing payments.

(a) *Determining cost of comparable replacement dwelling.* The upper limit of a replacement housing payment shall be based on the cost of a comparable replacement dwelling (defined at § 2(c)).

(1) If available, at least three comparable replacement dwellings shall be examined and the payment computed on the basis of the dwelling most nearly representative of, and equal to, or better than, the displacement dwelling. An adjustment shall be made to the asking price of any dwelling, to the extent justified by local market data (see also § 205(b)(2)(i)). An obviously overpriced dwelling may be ignored.

(2) If the site of the comparable replacement dwelling lacks a major exterior attribute of the displacement dwelling site, (e.g., the site is significantly smaller or does not contain a swimming pool), the value of such attribute shall be subtracted from the acquisition cost of the displacement dwelling for purposes of computing the payment. If the acquisition of a portion of a typical residential property causes the displacement of the owner from the dwelling and the remainder is a buildable residential lot, the Agency may offer to purchase the entire property. If the owner refuses to sell the remainder to the Agency, the fair market value of the remainder may be added to the acquisition cost of the displacement dwelling for purposes of computing the replacement housing payment.

(3) To the extent feasible, comparable replacement dwellings shall be selected from the neighborhood in which the displacement dwelling was located or, if that is not possible, in nearby or similar neighborhoods where housing costs are generally the same or higher.

(b) *Applicability of last resort housing.* Whenever a \$15,000 replacement housing payment under § 401 or a \$4,000 replacement housing payment under § 402 would be insufficient to ensure that a comparable replacement dwelling is available on a timely basis to a person, the Agency

shall provide additional or alternative assistance under the last resort housing provisions at Subpart G, which may include increasing the replacement housing payment so that a replacement dwelling is within the displaced person's financial means as described in § 402(c)(6)).

(c) *Inspection of replacement dwelling.* Before making a replacement housing payment or releasing a payment from escrow, the Agency or its designated representative shall inspect the replacement dwelling and determine whether it is a decent, safe, and sanitary dwelling as defined at § 2(e).

(d) *Purchase of replacement dwelling.* A displaced person is considered to have met the requirement to purchase a replacement dwelling, if the person:

- (1) Purchases a dwelling; or
- (2) Purchases and rehabilitates a substandard dwelling; or
- (3) Relocates a dwelling which he or she owns or purchases; or
- (4) Constructs a dwelling on a site he or she owns or purchases; or
- (5) Contracts for the purchase or construction of a dwelling on a site provided by a builder or on a site the person owns or purchases.

(e) *Occupancy requirements for displacement or replacement dwelling.* No person shall be denied eligibility for a replacement housing payment solely because the person is unable to meet the occupancy requirements set forth in these regulations for a reason beyond his or her control, including:

- (1) A disaster, an emergency, or an imminent threat to the public health or welfare, as determined by the President, the Federal agency funding the project, or the Agency; or
- (2) Another reason, such as a delay in the construction of the replacement dwelling, military reserve duty, or hospital stay, as determined by the Agency.

(f) *Conversion of payment.* A displaced person who initially rents a replacement dwelling and receives a rental assistance payment under § 402(b) is eligible to receive a payment under § 401 or § 402(c) if he or she meets the eligibility criteria for such payments, including purchase and occupancy within the prescribed 1-year period. Any portion of the rental assistance payment that has been disbursed shall be deducted from the payment computed under § 401 or § 402(c).

(g) *Payment after death.* A replacement housing payment is personal to the displaced person and upon his or her death the undisbursed portion of any such payment shall not

be paid to the heirs or assigns, except that:

(1) The amount attributable to the displaced persons period of actual occupancy of the replacement housing shall be paid.

(2) The full payment shall be disbursed in any case in which a member of a displaced family dies and the other family member(s) continue to occupy a decent, safe, and sanitary replacement dwelling.

(3) Any portion of a replacement housing payment necessary to satisfy the legal obligation of an estate in connection with the selection of a replacement dwelling by or on behalf of a deceased person shall be disbursed to the estate.

Subpart F—Mobile Homes

§ 501 Applicability.

This Subpart describes the requirements governing the provision of relocation payments to a person displaced from a mobile home and/or mobile homesite who meets the basic eligibility requirements of these regulations. Except as modified by this Subpart, such a displaced person is entitled to a moving expense payment in accordance with Subpart D and a replacement housing payment in accordance with Subpart E to the same extent and subject to the same requirements as persons displaced from conventional dwellings.

§ 502 Moving and related expenses—Mobile homes.

A tenant or owner-occupant displaced from a mobile home or mobile homesite is entitled to a payment for the cost of moving his or her personal property on an actual cost basis in accordance with § 301 or, as an alternative, on the basis of a fixed payment under § 302. (However, if the mobile home is not acquired but the owner obtains a replacement housing payment under one of the circumstances described at § 503(c), the owner is not eligible for payment for moving the mobile home.) The following rules apply to payments for actual moving expenses under § 301:

(a) A displaced mobile homeowner, who moves the mobile home to a replacement site, is eligible for the reasonable cost of disassembling, moving, and reassembling any attached appurtenances (such as porches, decks, skirting and awnings) which were not acquired, anchoring of the unit, and utility "hook-up" charges.

(b) If a mobile home requires repairs and/or modifications so that it can be moved and/or made decent, safe and

sanitary, and the Agency determines that it would be practical to relocate it, the reasonable cost of such repairs and/or modifications is reimbursable.

(c) A nonreturnable mobile home park entrance fee is reimbursable to the extent it does not exceed the fee at a comparable mobile home park, if the person is displaced from a mobile home park or the Agency determines that payment of the fee is necessary to effect relocation.

§ 503 Replacement housing payment for 180-day mobile homeowner-occupants.

A displaced owner-occupant of a mobile home is entitled to a replacement housing payment, not to exceed \$15,000, under § 401 if:

(a) The person both owned the displacement mobile home and occupied it on the displacement site for at least 180 days immediately prior to the initiation of negotiations;

(b) The person meets the other basic eligibility requirements at § 401(a); and

(c) The Agency acquires the mobile home and/or mobile homesite, or the mobile home is not acquired by the Agency but the owner is displaced from the mobile home because the Agency determines that the mobile home:

- (1) Is not and cannot economically be made decent, safe, and sanitary; or
- (2) Cannot be relocated without substantial damage or unreasonable cost; or
- (3) Cannot be relocated because there is no available comparable replacement site; or
- (4) Cannot be relocated because it does not meet mobile home park entrance requirements.

If the mobile home is not actually acquired, but the Agency determines that it is not practical to relocate it, the acquisition cost of the displacement dwelling used when computing the price differential amount, described at § 401(c), shall include the salvage value or trade-in value of the mobile home, whichever is higher.

§ 504 Replacement housing payments for 90-day mobile home occupants.

A displaced tenant or owner-occupant of a mobile home is eligible for a replacement housing payment, not to exceed \$4,000, under § 402 if:

(a) The person actually occupied the displacement mobile home on the displacement site for at least 90 days immediately prior to the initiation of negotiations;

(b) The person meets the other basic eligibility requirements at § 402(a); and

(c) The Agency acquires the mobile home and/or mobile homesite, or the mobile home is not acquired by the Agency but the owner or tenant is displaced from the mobile home because of one of the circumstances described at § 403(c).

§ 405 Additional rules governing relocation payment to mobile home occupants.

(a) *Replacement housing payment based on dwelling and site.* Both the mobile home and mobile homesite must be considered when computing a replacement housing payment. For example, a displaced mobile home occupant may have owned the displacement mobile home and rented the site or may have rented the displacement mobile home and owned the site. Also, a person may elect to purchase a replacement mobile home and rent a replacement site, or rent a replacement mobile home and purchase a replacement site. In such cases, the total replacement housing payment shall consist of a payment for a dwelling and a payment for a site, each computed under the applicable section in Subpart E. However, the total replacement housing payment under Subpart E shall not exceed the maximum payment (either \$15,000 or \$4,000) permitted under the section that governs the computation for the dwelling. (See also § 403(b).)

(b) *Cost of comparable replacement dwelling.*

(1) If a comparable replacement mobile home is not available, the replacement housing payment shall be computed on the basis of the reasonable cost of a conventional comparable replacement dwelling.

(2) If the Agency determines that it would be practical to relocate the mobile home, but the owner-occupant elects not to do so, the Agency may determine that, for purposes of computing the price differential under § 401(c), the cost of a comparable replacement dwelling is the sum of—

- (i) The value of the mobile home;
- (ii) The cost of any necessary repairs or modifications; and
- (iii) The estimated cost of moving the mobile home to a replacement site.

(c) *Initiation of negotiations.* If the mobile home is not actually acquired, but the occupant is considered displaced under these regulations, the "initiation of negotiations" is the initiation of negotiations to acquire the land, or, if the land is not acquired, the written notification that he or she is a displaced person under these regulations.

(d) *Person moves mobile home.* If the owner is reimbursed for the cost of

moving the mobile home under these regulations, he or she is not eligible to receive a replacement housing payment to assist in purchasing or renting a replacement mobile home. The person may, however, be eligible for assistance in purchasing or renting a replacement site.

(e) *Partial acquisition of mobile home park.* The acquisition of a portion of a mobile home park property may leave a remaining part of the property that is not adequate to continue the operation of the park. If the Agency determines that a mobile home located in the remaining part of the property must be moved as a direct result of the project, the owner and any tenant shall be considered a displaced person who is entitled to relocation payments and other assistance under these regulations.

Subpart G—Last Resort Housing

§ 401 Applicability.

(a) *Basic determination to provide last resort housing.* A person cannot be required to move from his or her dwelling unless at least one comparable replacement dwelling is made available to the person. Whenever an Agency determines that a replacement housing payment under Subpart E would not be sufficient to provide a comparable replacement dwelling on a timely basis to the person, the Agency is authorized to take appropriate measures under this Subpart to provide such a dwelling. The Agency's obligation to ensure that a comparable replacement dwelling is available shall be met when such a dwelling, or assistance necessary to provide such a dwelling, is offered under the provisions of this Subpart.

(a) *Basic rights of persons to be displaced.* The provisions of this Subpart do not deprive any displaced person of any rights the person may have under the Uniform Act or any implementing regulations. The Agency shall not require any displaced person to accept a dwelling provided by the Agency under the procedures in this Subpart (unless the Agency and the displaced person have entered into a contract to do so) in lieu of any acquisition payment or any relocation payment for which the person may otherwise be eligible. A 180-day homeowner-occupant who is eligible for a payment under § 401 is entitled to a reasonable opportunity to purchase a comparable replacement dwelling. (See Appendix A, § 401(b).)

§ 402 Methods of providing replacement housing.

Agencies shall have broad latitude in implementing this Subpart, but

implementation shall be on a reasonable cost basis. The methods of providing last resort housing include, but are not limited to:

(a) Rehabilitation of and/or additions to an existing replacement dwelling.

(b) The construction of a new replacement dwelling.

(c) The provision of a direct loan, which requires regular amortization or deferred repayment. The loan may be unsecured or secured by the real property. The loan may bear interest or be interest-free.

(d) A replacement housing payment in excess of the limits set forth in § 401 or § 402. A rental assistance subsidy under this Subpart may be provided in installments or in a lump sum.

(e) The relocation and, if necessary, rehabilitation of a dwelling.

(f) The purchase of land and/or a replacement dwelling by the displacing agency and subsequent sale or lease to, or exchange with, a displaced person.

(g) The removal of barriers to the handicapped.

Appendix A—Additional Information

This appendix provides additional information to explain the intent of certain provisions of the rule.

Subpart A—General

Section 2(c) Definition of comparable replacement dwelling.

The requirement in § 2(c)(2) that a comparable replacement dwelling be "functionally similar" to the displacement dwelling means that it must perform the same function, provide the same utility, and be capable of contributing to a comparable style of living as the displacement dwelling. While it need not possess every feature of the displacement dwelling, the principal features must be present.

Generally, functional similarity is an objective standard, reflecting the range of purposes for which the various features of a dwelling may physically be used. However, in determining whether a replacement dwelling is functionally similar to the displacement dwelling, the Agency may consider reasonable trade-offs in specific features when the replacement unit is "equal or better than" the displacement dwelling.

For example, if the displacement dwelling contains a pantry and a similar dwelling is not available, a replacement dwelling with ample kitchen cupboards may be acceptable. Insulated and heated space in a garage might prove an adequate substitute for basement workshop space. A dining area may substitute for a separate dining room.

Under some circumstances, attic space could substitute for basement space for storage purposes, and vice versa.

Only in unusual circumstances may a comparable replacement dwelling contain fewer rooms or consequentially less living space than the displacement dwelling. Such may be the case when a decent, safe, and sanitary replacement dwelling (which by definition is "adequate to accommodate" the displaced person) may be found to be "functionally similar" to a larger but very run-down substandard displacement dwelling.

Section 2(c)(5) requires that a comparable replacement dwelling for a person who is not receiving assistance under any government housing program before displacement must be currently available on the private market without any subsidy under a government housing program.

A public housing unit may qualify as a comparable replacement dwelling only for a person displaced from a public housing unit; a privately-owned dwelling with a housing program subsidy tied to the unit may qualify as a comparable replacement dwelling only for a person displaced from a similarly subsidized unit or public housing; a housing program subsidy to a person (not tied to the building), such as a HUD Section 8 Existing Housing Program Certificate or a Housing Voucher, may be reflected in an offer of a comparable replacement dwelling to a person receiving a similar subsidy or occupying a privately-owned subsidized unit or public housing unit before displacement.

However, nothing in these regulations prohibits an Agency from offering, or precludes a person from accepting, assistance under a government housing program, even if the person did not receive similar assistance before displacement. However, the Agency is obligated to inform the person of his or her options under these regulations. (If a person accepts assistance under a government housing program, the rental assistance payment under § 402 would be computed on the basis of the person's actual out-of-pocket cost for the replacement housing.)

Section 2(f)(2) Persons not displaced.

Section 2(f)(2)(iii) recognizes that there are circumstances where the acquisition of real property takes place without the intent or necessity that an occupant of the property be displaced. Because such occupants are not considered "displaced persons" under these regulations, great care must be exercised to ensure that they are treated fairly and equitably. For example, if the

tenant-occupant of a dwelling will not be displaced, but is required to relocate temporarily in connection with the project, the temporarily-occupied housing must be decent, safe and sanitary and the tenant must be reimbursed for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including moving expenses and increased housing costs during the temporary relocation.

It is also noted that any person who disagrees with the Agency's determination that he or she is not a displaced person under these regulations may file an appeal in accordance with § 10.

Section 2(k) Initiation of negotiations.

This section of the rule provides a special definition for acquisitions and displacements under Pub. L. 96-510 or Superfund. These activities differ under Superfund in that relocation may precede acquisition, the reverse of the normal sequence. Superfund is a program designed to clean up hazardous waste sites. When such a site is discovered, it may be necessary, in certain limited circumstances, to alert the public to the danger and to the advisability of moving immediately. If a decision is made later to permanently relocate such persons, those who had moved earlier would no longer be on site when a formal, written offer to acquire the property was made and thus would lose their eligibility for a replacement housing payment. In order to prevent this unfair outcome, we have provided a definition which is based on the public health advisory or announcement of permanent relocation.

Section 3 No duplication of payments.

This section prohibits an Agency from making a payment to a person under these regulations that would duplicate another payment the person receives under Federal, State, or local law. The Agency is not required to conduct an exhaustive search for such other payments; it is only required to avoid creating a duplication based on the Agency's knowledge at the time a payment under these regulations is computed.

Section 9(c) Reports.

This regulation allows Federal agencies to require the submission of a report on activities under the Uniform Act no more frequently than once every three years. The report, if required, will cover activities during the Federal fiscal year immediately prior to the submission date. In order to minimize

the administrative burden on Agencies implementing this rule, a basic report form (see Appendix B) has been developed which, with only minor modifications, would be used in all Federal and federally-assisted programs or projects.

Subpart B—Real Property Acquisition

Section 101(a) General.

The provisions of this Subpart apply to real property acquisition for the following types of Federal or federally-assisted programs or projects:

(1) Those carried out under the threat of eminent domain, including amicable agreements under the threat of such power.

(2) Where there is an intended, planned, or designated project area, and all or substantially all of the property within that area is eventually intended to be acquired. Such acquisitions are subject to the requirements of this Subpart whether or not the Agency has or intends to use the power of eminent domain.

Provided it does not conflict with the foregoing, an Agency may determine that the requirements of this Subpart do not apply to an acquisition if all of the following conditions are present:

(1) No specific site or property needs to be acquired, although the Agency may limit its search for alternative sites to a general geographic area.

(2) The property to be acquired is not part of an intended, planned, or designated project area where all or substantially all of the property within the area is eventually to be acquired.

(3) The Agency will not acquire the property in the event negotiations fail to result in an amicable agreement, and the owner is so informed.

Acquisitions meeting the foregoing criteria are classified as voluntary transactions. The essence of a voluntary transaction is the conditions surrounding the transaction, not the type of transaction itself. A voluntary transaction may involve a donation, an exchange, or a market sale, if the transaction is without compulsion on the part of the Agency.

In those situations where an Agency wishes to purchase more than one site within a geographic area on a "voluntary transaction" basis, it is intended that all owners be treated similarly.

Although the displacement of the owner-occupant of the real property as a result of a voluntary transaction is not subject to these regulations (see § 2(f)(2)(vi)), the displacement of a

tenant-occupant of the real property is subject to these regulations.

Section —101(b) Less-than-full-fee interest in real property.

This provision provides a benchmark beyond which the requirements of the subpart clearly apply to leases. However, the Agency may apply the regulations to any less-than-full-fee acquisition which is short of 50 years but which in its judgment should be covered.

Section —102(d) Establishment of offer of just compensation.

The initial offer to the property owner may not be less than the amount of the Agency's approval appraisal, but may exceed that amount if the Agency determines that a greater amount reflects just compensation for the property.

Section —102(f) Basic negotiation procedures.

It is intended that an offer to an owner be adequately presented, and that the owner be properly informed. Personal, face-to-face contact should take place, if feasible, but this section is not intended to require such contact in all cases.

Section —102(i) Administrative settlement.

This section provides guidance on administrative settlement as an alternative to judicial resolution of a difference of opinion on the value of a property, in order to avoid unnecessary litigation and congestion in the courts.

All relevant facts and circumstances should be considered by an Agency official delegated this authority. Appraisers, including reviewing appraisers, must not be pressured to adjust their estimate of value for the purpose of justifying such settlements. Such action would invalidate the appraisal process.

Section —102(j) Payment before taking possession.

It is intended that a right-of-entry for construction purposes be obtained only in the exceptional case, such as an emergency project, when there is no time to make an appraisal and purchase offer and the property owner is agreeable to the process.

Section —102(m) Fair Rental.

Section 301(6) of the Uniform Act limits what an Agency may charge when a former owner or previous occupant of a property is permitted to rent the property for a short term or when occupancy is subject to termination by

the Agency on short notice. Such rent may not exceed "the fair rental value . . . to a short-term occupier." The Agency's right to terminate occupancy on short notice (whether or not the renter also has that right) supports the establishment of a lesser rental than might be found in a longer, fixed-term situation.

Section —103(b) Standards of appraisal.

In paragraph (b)(3) of this section, it is intended that all relevant and reliable approaches to value be utilized. However, where an Agency determines that the market approach will be adequate by itself because of the type of property being appraised and the availability of sales data, it may limit the appraisal assignment to the market approach.

Section —103(c) Influence of the project on just compensation.

As used in this section, the term "project" is intended to mean an undertaking which is planned, designed, and intended to operate as a unit.

Because of the public knowledge of the proposed project, property values may be affected. A property owner should not be penalized because of a decrease in value caused by the proposed project nor reap a windfall at public expense because of increased value created by the proposed project.

Section —103(f) Conflict of interest.

The overall objective is to minimize the risk of fraud and mismanagement and to promote public confidence in Federal and federally-assisted land acquisition practices. Recognizing that the costs may outweigh the benefits in some circumstances, the rule provides that the same person may both appraise and negotiate an acquisition, if the value is \$2,500 or less. However, it should be noted that all appraisals must be reviewed in accordance with § —104. This includes appraisals of real property valued at \$2,500, or less.

Section —104 Review of appraisals.

This section recognizes that Agencies differ in the authority delegated to the review appraiser. In some cases the reviewer establishes the amount of the offer to the owner and in other cases the reviewer makes a recommendation which is acted on at a higher level. It is also within Agency discretion to decide whether a second review is needed if the first review appraiser establishes a value different from that in the appraisal report or reports on a property.

Before acceptance of an appraisal, the review appraiser must determine that

the appraiser's documentation, including valuation data and the analyses on that data, demonstrates the soundness of the appraiser's opinion of value. The qualifications of the review appraiser and the level of explanation of the basis for the reviewer's recommended or approved value depend on the complexity of the appraisal problem. For a low value property requiring an uncomplicated valuation process, the reviewer's approval, endorsing the appraiser's report, may satisfy the requirement for the reviewer's statement.

Section —108 Expenses incidental to transfer of title to the agency.

Generally, the Agency is able to pay such incidental costs directly and, where feasible, is required to do so. In order to prevent the property owner from making unnecessary out-of-pocket expenditures and to avoid duplication of expenses, the property owner should be informed early in the acquisition process of the Agency's intent to make such arrangements. In addition, it is emphasized that such expenses must be reasonable and necessary.

Section —108 Donations.

This section provides that the Agency must obtain an appraisal and offer the full amount of just compensation due unless the owner, after being fully informed of such policies, releases the Agency from these obligations.

Subpart C—General Relocation Requirements

Section —204(a) Availability of comparable replacement dwelling before displacement.

This provision requires that no one may be required to move from a dwelling without one comparable replacement dwelling having been made available. In addition, this regulation requires that, "Where possible, three or more comparable replacement dwellings shall be made available." Thus the basic standard for the number of referrals required under this rule is three. Only in situations where three comparable replacement dwellings are not available (e.g., when the local housing market does not contain three comparable dwellings) may the Agency make fewer than three referrals.

Section —205 Relocation assistance advisory services.

Section —205(b)(2)(iii) is intended to emphasize that if the comparable replacement dwellings are located in areas of minority concentration,

minority persons should, if possible, also be given opportunities to relocate to replacement dwellings not located in such areas.

Section —206 Eviction for cause.

Basic eligibility for assistance is established on the basis of facts existing as of the date of the initiation of negotiations. Once the Agency has determined that a person has satisfied such requirements, there is no basis for changing that determination.

Section —207 General requirements—claims for relocation payments.

Section —207(a) allows an Agency to make a payment for low cost or uncomplicated moves without additional documentation, as long as the payment is limited to the amount of the lowest acceptable bid or estimate.

Subpart E—Replacement Housing Payments

The provision in § —401(c)(4)(iii) to use the current fair market value for residential use does not mean the Agency must have an appraisal made. Any reasonable method at arriving at the fair market value may be used.

The provision in § —402(b)(1) to use the fair market rent for the displacement dwelling is intended to address the computation of payments for homeowner-occupants (who, of course, paid no rent before displacement) and those unusual situations in which a tenant is paying an unreasonably low rent and a payment based on such rent would provide a windfall. The provision is not intended to apply in those situations where the use of the fair market rent would result in a hardship because of the displaced person's income or other special circumstances.

Subpart F—Mobile Homes

Section —503(c) Replacement housing payment for 180-day mobile homeowner-occupants.

A 180-day owner-occupant who is displaced from a mobile home on a rented site may be eligible for a replacement housing payment for a dwelling computed under § —401 and a replacement housing payment for a site computed under § —402. A 180-day owner-occupant of both the mobile home and the site, who relocates the mobile home, may be eligible for a replacement housing payment under § —401 to assist in the purchase of a replacement site or, under § —402, to assist in renting a replacement site.

Subpart G—Last Resort Housing

Section —601(a) Basic determination to provide last resort housing.

No additional guidelines for implementation are included in the regulation because additional requirements would tend to limit the flexibility considered necessary or appropriate to provide comparable replacement housing on a timely basis.

Section —601(b) Basic rights of persons to be displaced.

This paragraph affirms the right of a 180-day homeowner-occupant, who is eligible for a replacement housing payment under § —401, to a reasonable opportunity to purchase a comparable replacement dwelling. However, it should be read in conjunction with the definition of "owner of displacement dwelling" at § —2(l). The Agency is not required to provide persons owning only a fractional interest in the displacement dwelling a greater level of assistance to purchase a replacement dwelling than the Agency would be required to provide such persons if they owned fee simple title to the displacement dwelling. If such assistance is not sufficient to buy a replacement dwelling, the Agency may provide additional purchase assistance or rental assistance.

Section —602 Methods of providing replacement housing.

The use of cost effective means of providing replacement housing is implied throughout the regulation. The term "reasonable cost" is used here to underline the fact that while innovative means to provide housing are allowed, they should be cost-effective.

Whenever last resort housing assistance is provided to a 180-day homeowner-occupant who must pay a higher interest rate for a new mortgage, reimbursement of increased mortgage interest costs may be based on the "buy down" approach, rather than the more costly formula at § —401(d). Under the "buy down" approach, a lump sum payment is made to reduce the amount of the new mortgage to the amount which can be amortized with the same repayment schedule (payment amounts and due dates) as the mortgage on the displacement dwelling. However, the "buy down" approach shall not be used to reduce a payment to less than \$15,000 if the payment computed under § —401 would equal \$15,000.

Appendix B—Statistical Report Form

This appendix sets forth the statistical information which may be collected

from Agencies in accordance with § —9(c).

General

1. *Report coverage.* This report covers all relocation and real property acquisition activities under a Federal or a federally assisted project or program subject to the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. 91-646 (herein called the "Uniform Act").

2. *Report period.* Activities shall be reported on a Federal Fiscal Year basis, i.e., October 1–September 30, for the year in which the report is required.

3. *Where and when to submit report.* Submit an original and two copies of this report to (Name and Address of Federal Agency) as soon as possible after September 30, but **NOT LATER THAN NOVEMBER 15** of the year in which the report is due.

4. *How to report relocation payments.* The full amount of a relocation payment shall be reported as if disbursed in the year during which the payment was approved, regardless of whether the payment is to be paid in installments.

5. *How to report dollar amounts.* Round off all money entries in Parts B and C to the nearest dollar.

6. *Statutory references.* The references in parentheses in Part B indicate the section of the Uniform Act that authorizes the cost.

Part A. Persons Displaced

Report in Part A the number of persons ("households," "businesses, including nonprofit organizations," and "farms") who were permanently displaced during the report year by project or program activities and moved to their replacement dwelling or location. This includes businesses, nonprofit organizations and farms which, upon displacement, discontinued operations. The category "households" includes all families and individuals. A family shall be reported as "one" household, *not* by the number of people in the family unit. Persons shall be reported according to their status as "owners" or "tenants" of the property from which displaced.

Part B. Relocation Payments and Expenses

Columns (a) or (b). Report in Column (a) the number of claims approved during the report year. Report in Column (b) the total amount represented by the claims reported in Column (a).

Line 10b, Column (b). Report in Column (b) the amount of increased mortgage interest costs that was

included in the total amount approved for Replacement Housing Payments for Homeowners on Line 10a, Column (b). Leave Line 10b, Column (a) blank.

Line 13. Report in Column (a) the number of households displaced by project or program activities which were provided assistance in accordance with section 206(a) of the Uniform Act. Report in Column (b) the total financial assistance under Section 206(a) allocable to the households reported in Column (a). (If a household received financial assistance under section 203 or section 204 as well as under section 206(a) of the Uniform Act, report the household as a claim in Column (a), but in Column (b) report only the amount of financial assistance allocable to section 206(a). For example, if a tenant-household receives a payment of \$5,000 to rent a replacement dwelling, the sum

of \$4,000 shall be included on Line 11, Column (b), and \$1,000 shall be included on Line 13, Column (b).)

Line 14. Report on Line 14 all administrative costs incurred during the report year in connection with providing relocation advisory assistance and services under section 205 of the Uniform Act.

*Part C. Real Property Acquisition
Subject to Uniform Act*

Line 16, Columns (a) and (b). Report in Column (a) all parcels acquired during the report year where title or possession was vested in the acquiring agency during the reporting period. (Include parcels acquired without Federal financial assistance, if there was or will be Federal financial assistance in other phases of the project or program.) Report in Column (b) the total of the amounts paid, deposited in

court, or otherwise made available to a property owner pursuant to applicable law in order to vest title or possession in the acquiring agency.

Line 17. Report on Line 17 the number of parcels reported on Line 16 that were acquired by condemnation where price disagreement was involved. Leave Line 17, Column (b), blank.

*Part D. Relocation Appeals Filed During
Report Year*

Line 18. Report on Line 18 the total number of relocation appeals filed during the report year by a person alleging the Agency failed to properly determine the person's eligibility for, or the amount of, a relocation payment required under these regulations.

BILLING CODES 3410-92; 6450-01; 3510-FB; 7510-01; 4210-32; 4510-23; 3910-01; 4000-01; 7620-01; 8320-01; 6560-50; 6820-23; 4310-10; 4410-01; 6710-01; 4150-04; 4910-62-M

Model Uniform Act Report

Attachment
Appendix B

Part A. Persons Displaced by Activities Subject to the Uniform Act During Report Year

	Item	Total (a)	No. of Owners (b)	No. of Tenants (c)
1	Households (Families and individuals)			
2	Businesses and Nonprofit Organizations			
3	Farms			

Part B. Relocation Payments and Expenses Under Uniform Act During Report Year

	Item	No. of Claims (a)	Amount (b)
4	Payments for Moving Expenses for Households	Actual Expenses (Section 202(a))	
5		Fixed Payment Including Dislocation Allowance (Section 202(b))	
6	Payments for Moving Expenses for Business and Nonprofit Organizations	Actual Expenses (Section 202(a))	
7		Payment in Lieu of Actual Expenses (Section 202(c))	
8	Payment for Moving Expenses for Farms	Actual Expenses (Section 202(a))	
9		Payment in Lieu of Actual Expenses (Section 202(c))	
10a	Replacement Housing Payments for Homeowners (Section 203(a))		
10b	Amount on Line 10a Attributable to Increased Mortgage Interest Costs		
11	Rental Assistance Payment (Tenants and Certain Others) (Section 204(1))		
12	Downpayment Assistance (Tenants and Certain Others) (Section 204(2))		
13	Housing Assistance as Last Resort (Section 206(a))		
14	Relocation Advisory Assistance and Services Cost (Section 205)		
15	Total (Sum of Lines 4 through 14 Excluding Line 10b)		

Part C. Real Property Acquisition Subject to Uniform Act During Report Year

	Item	No. of Parcels (a)	Compensation (b)
16	Total Parcels Acquired		
17	Total Parcels Acquired by Condemnation Included on Line 16 (where price disagreement was involved)		

Part D. Relocation Grievances Filed During Report Year

	Item	Total No.
18	Relocation Grievances Filed in Connection with Project / Program	

[FR Doc. 86-4305 Filed 2-26-86; 8:45 am]

BILLING CODES 3410-98; 6450-01; 3510-FB; 7510-01;
 4210-32; 4510-23; 3810-01; 4000-01; 7530-01; 8320-01;
 6550-50; 6320-23; 4310-10; 4410-01; 6716-01; 4150-04;
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